




Agenda Item No: SM 2.c
Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: LIBRARY & RECREATION

Prepared by: Catherine Quffa,
Library & Recreation Director

City Manager Approval: 

TOPIC: DONATION OF OPEN SPACE ON GOLD HILL GRADE

SUBJECT: RESOLUTION ACCEPTING THE OFFER OF DONATION FROM MARIN OPEN SPACE TRUST OF VACANT LOT ON GOLD HILL GRADE APN 015-250-34 TO THE CITY IN FEE FOR PERMANENT OPEN SPACE AND AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, ALL DOCUMENTS REQUIRED TO EFFECTUATE SUCH CONVEYANCE

RECOMMENDATION:

Adopt a resolution accepting the offer of donation from Marin Open Space Trust of vacant lot on Gold Hill Grade APN 015-250-34 to the City in fee for permanent open space and authorizing the City Manager to execute, on behalf of the City, all documents required to effectuate such conveyance.

BACKGROUND:

On occasion, the City receives inquiries as to whether it would be interested in accepting a donation of land for designation as San Rafael Open Space. To provide direction and consistency in how the City approaches offers of open space, the City Council, with recommendation from the Park & Recreation Commission, adopted an [Open Space Acquisition Policy](#) in 2017 (Attachment 2). The policy provides specific guiding principles and a process to deliberate and decide whether to accept donations of land as San Rafael Open Space.

In 2003, the City of San Rafael purchased two vacant parcels of land totaling 26 acres on Gold Hill Grade (APN 015-250-28 and -55), utilizing funding from the 1972 Open Space Land Acquisition Bond Fund and with financial support from the Marin County Open Space District and the Save Gold Hill Committee. The parcels were designated as permanent open space and incorporated into the existing Harry Barbier Memorial Park. After the purchase, one 2.6-acre parcel of privately owned property (APN 015-250-34) (the "Property") remained encircled by the acquired City open space.

In September 2022, the Marin Open Space Trust (MOST) approached the City with an offer to broker the donation of the Property to the City as permanent open space. The Property is located above the Dominican neighborhood and maps of the Property can be found in Attachment 3. As mentioned, the

FOR CITY CLERK ONLY

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Disposition: _____

Property is entirely surrounded by Harry Barbier Memorial Park, which is existing City open space, and public access is limited to a graded fire road that borders the northwest corner of the Property. The Property is currently designated as Hillside Resource Residential in the San Rafael General Plan 2040.¹

Over the past year, MOST has been working with the current Property owners, Dyanne Bailey and Susan Grippi, and are proposing to acquire the land as a donation and then transfer title of the Property to the City. MOST would absorb the closing costs and any other costs associated with the Property transfer. In 2017, the City partnered with MOST to accept two parcels of land on Makin Grade to set aside as permanent open space using a similar process.

ANALYSIS:

The City of San Rafael Open Space Acquisition Policy establishes a process as well as guiding principles for reviewing the acquisition of open space. The responsibility for open space acquisition is established as follows:

The acquisition of Open Space lands is at the decision and discretion of the San Rafael City Council. Proposals presented by City staff representing the Departments of Community Development, Public Works, Police, Fire, Community Services and Finance will first be considered by the Park and Recreation Commission at one or more public noticed meetings, and with other community outreach as determined appropriate. The Commission recommendation to accept or decline the proposed acquisition will be submitted to the City Council prior to the one or more public noticed meetings when the proposal is considered for action. If accepted, City staff shall execute the acquisition and on-going support services for the Open Space preservation, recreation, and public security.

Staff from the Administrative Services, Community Development, Fire, Library and Recreation, Police, and Public Works departments have reviewed the proposed donation of the Property and evaluated the proposal based on the Open Space Acquisition Policy. Staff from all departments are supportive of the proposed acquisition and have identified the following elements of the Property that align with the Open Space Acquisition Policy's guiding principles:

- The Property is located within City of San Rafael City Limits.
- Adding the Property to the City's open space portfolio would provide positive public benefit and public utility including:
 - Ensuring preservation of the natural space, environment, and existing use.
 - As many users are unaware that the Property is not already part of Harry Barbier Memorial Park, it is currently used for recreation purposes and an undesignated user trail passes through the Property. Preservation would allow for continued recreational use.
- The Property has adjacency and/or connectivity to existing park/open space. The Property is surrounded by existing City open space, so the City is the most logical owner for open space preservation.
- The Property has title with no feasible alternative ownership options for preservation and acquisition would be a fee simple title transfer. The Property title report shows that the Property is currently owned by the two individuals that have been working with MOST and there are no

¹ Per the San Rafael General Plan 2040: Hillside Resource Residential "is intended for privately owned land, typically with geologic or seismic constraints that limit development potential. Such areas are often located on steep hillsides that are visually significant and have been identified as having very limited potential through prior development proposals. Hillside Resource Residential Areas include single family homes on very large lots, as well as undeveloped properties."

foreseeable title conflicts. In addition, MOST would secure title insurance for the City as part of the transfer.

- The Property has existing access via a graded fire road that passes through existing City open space.
- The proposed acquisition of the Property was presented to the Dominican Black Canyon Neighborhood Association and distributed through the Neighborhood Association mailing list. Members in attendance of the meeting were supportive. (See Community Outreach section below.)
- The Department of Public Works has evaluated the Property and determined that it is environmentally stable and clear of significant safety or security issues. Attachment 3 shows the location of the Property, which includes a small user trail along a ridgeline and is fully vegetated.
- Owning the Property could provide wildfire mitigation benefits if the City decided to use social trails to increase more fuel breaks in the future.
- The location and status of the Property does not pose significant liability issues for the City.
- Acquisition of the Property would not present significant financial impact to City resources for acquisition, management, maintenance, or security.
- The Property does not require improvements or amenities.

The San Rafael General Plan 2040 also includes policies and programs that are important to consider in relation to the proposed acquisition.

Specifically, the Parks, Recreation, and Open Space Element states:

Policy PROS-3.1: Open Space Frame

Retain and protect San Rafael's open space frame, including open space on the city's perimeter and the network of open spaces that define and connect the city's neighborhoods. Open space should be recognized as essential to wildlife, environmental and human health, psychological well-being, and as a natural means of separating communities, preventing sprawl, and providing visual relief.

Program PROS-3.1A: Criteria for Open Space Protection. Use the following criteria for identifying and prioritizing open space parcels for future protection (the criteria are not listed in any particular order):

- a) *Environmental health and safety issues and potential geologic and seismic hazards.*
- b) *Aesthetics (visual backdrop or edge, unique site features, shoreline, ridgelines).*
- c) *Wildlife resource value (wetlands, creeks and riparian areas, wildlife habitat and movement corridors, and habitat for special status species).*
- d) *Ability to sequester carbon and mitigate potential climate-related impacts, including reduction of wildfire hazard, drought resilience, protection from sea-level rise.*
- e) *Importance to the community as a whole and/or adjoining neighborhoods.*
- f) *Merits of alternative uses.*
- g) *Ability to connect existing open spaces.*
- h) *Potential for recreational uses and/or environmental education, especially for economically disadvantaged communities.*
- i) *Availability of outside (non-City) financial assistance.*
- j) *Potential maintenance and management costs and liability exposure for the City.*
- k) *Feasibility of protection through zoning, easements, development agreements, and other tools rather than through acquisition.*

Many of the criteria for open space protection set forth in the General Plan 2040 align with the Open Space Acquisition Policy's guiding principles. As outlined above, many features of the Property are supportive of the criteria for open space protection. Specifically, the Property is free of major health and safety issues and geologic hazards; provides wildlife resource value in ensuring a contiguous wildlife habitat with surrounding City open space; provides potential wildfire mitigation benefits; connects to existing open space; would be supported financially by MOST absorbing the property transfer costs; and requires minimal additional maintenance, management, and liability costs for the City.

Additionally, the Dominican/Black Canyon portion of the Neighborhood Element includes the following:

Policy NH-2.15: Dominican/Black Canyon Area Resources and Hazards. Proactively work to conserve and restore natural resources and reduce environmental hazards in the Dominican/Black Canyon area, including wildfire, landslide, and noise hazards.

Program NH-2.15C: Open Space Dedication. Consider offers to dedicate vacant sites, including the 17.9-acre parcel at the end of Dominican Drive (also with frontage on Glen Park Avenue), as public open space.

This acquisition of open space would support the above goals of the General Plan 2040.

COMMUNITY OUTREACH:

On Thursday, November 18, the Park and Recreation Commission received a report on the proposed Property acquisition. The Commission voted 4-0 (with one member absent) to recommend acceptance of the donation of the Property by the City of San Rafael to City Council. Representatives from MOST were in attendance to answer questions from the Commission.

On Wednesday, November 9, representatives from MOST and City staff met with the Dominican Black Canyon Neighborhood Association to present the proposed Property acquisition and to answer any questions. As the Property is surrounded by existing City open space, there are no immediate neighbors to the Property, however it is in closest proximity to the Dominican Black Canyon neighborhood. At the Dominican Black Canyon Neighborhood Association, participants expressed general support for the acquisition and several members articulated their intent to submit a formal letter of support. The Association Board shared that they would further inform association members of the acquisition via e-mail and encourage them to attend the November 17, Park and Recreation Commission Meeting to voice their opinions. The City has also received direct communication from community members, which have been included as Attachment 4.

ENVIRONMENTAL DETERMINATION:

The proposed Property acquisition is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines section 15307 (actions for protecting natural resources) and 15308 (actions for protecting environment). Section 15307 (Class 7) consists of actions to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Section 15308 (Class 8) consists of actions to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

FISCAL IMPACT:

There is no direct fiscal impact associated with acceptance of the donation of the Property on Gold Hill Grade. MOST has agreed to absorb all closing costs and other expenses associated with the transfer of

Property. City staff have determined that acquisition of the Property as permanent open space would not require significant additional City resources, financial or staffing, for ongoing management.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt the resolution as presented.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt a resolution accepting the offer of donation from Marin Open Space Trust of vacant lot on Gold Hill Grade APN 015-250-34 to the City in fee for permanent open space and authorizing the City Manager to execute, on behalf of the City, all documents required to effectuate such conveyance.

ATTACHMENTS:

1. Resolution
2. Open Space Acquisition Policy
3. Property Maps
4. Public Comment on the Proposed Property Acquisition

RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ACCEPTING THE OFFER OF DONATION FROM MARIN OPEN SPACE TRUST OF VACANT LOT ON GOLD HILL GRADE APN 015-250-34 TO THE CITY IN FEE FOR PERMANENT OPEN SPACE AND AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, ALL DOCUMENTS REQUIRED TO EFFECTUATE SUCH CONVEYANCE

WHEREAS, in 2003, the City, with financial support from the Marin County Open Space District and donations from the Save Gold Hill Committee, purchased two parcels of land totaling 26 acres on Gold Hill Grade; and

WHEREAS, the two parcels were designated as City Open Space and incorporated into the City's existing Harry Barbier Memorial Park; and

WHEREAS, in September 2022, the Marin Open Space Trust received an offer of donation of an additional parcel on Gold Hill Grade (APN 015-250-34) and now proposes to transfer title, in fee, to the City of San Rafael for use as permanent open space as part of the Harry Barbier Memorial Park; and

WHEREAS, the Park and Recreation Commission reviewed the proposal at a regular meeting on November 17, 2022, and recommended acceptance of the donation by the City Council; and

WHEREAS, staff of the Administrative Services, Community Development, Fire, Library and Recreation, Police, and Public Works departments deem the acceptance of the donation to be supportive of the City's Open Space Acquisition Policy and of minimal impact to City resources.

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby authorizes as follows:

1. The City Council hereby accepts the offer of donation from Marin Open Space Trust of vacant lot on Gold Hill Grade APN 015-250-34 to the City in fee for permanent open space.
2. The City Manager is hereby authorized to execute, on behalf of the City, all documents required to effectuate such conveyance.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a special meeting of the City Council of the City of San Rafael, held on Monday, the 5th day of December 2022, by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Lindsay Lara, City Clerk

City of San Rafael Open Space Acquisition Policy

Purpose

The purpose of this policy is to set criteria for selecting and/or accepting the acquisition of additional Open Space lands by the City of San Rafael.

Responsibility

The acquisition of Open Space lands is at the decision and discretion of the San Rafael City Council. Proposals presented by City staff representing the Departments of Community Development, Public Works, Police, Fire, Community Services and Finance will first be considered by the Park and Recreation Commission at one or more public noticed meetings, and with other community outreach as determined appropriate. The Commission recommendation to accept or decline the proposed acquisition will be submitted to the City Council prior to the one or more public noticed meetings when the proposal is considered for action. If accepted, City staff shall execute the acquisition and on-going support services for the Open Space preservation, recreation and public security.

Reference

San Rafael General Plan 2020, Goal 30: Protected Open Space

It is the goal of San Rafael to preserve and protect open space and the natural environment for all to enjoy. *Preservation of open space and the natural environment has been a priority for San Rafael residents for many years. Whenever possible, the natural terrain and vegetation of the community should be preserved and maintained.*

The City of San Rafael owns 3,703 acres of Open Space. A total of 7,800 acres of Open Space is currently within City planning area. The City has purchased or accepted donations of properties to the Open Space Inventory. In September 2016 the City Council directed a policy to provide criteria for future acquisition of Open Space lands to ensure that decisions were made based on the value of prospective lands for public recreation, environmental stewardship, view corridor retention and other public benefit in relationship to the responsibility of managing, maintaining and securing the lands in perpetuity.

Policy

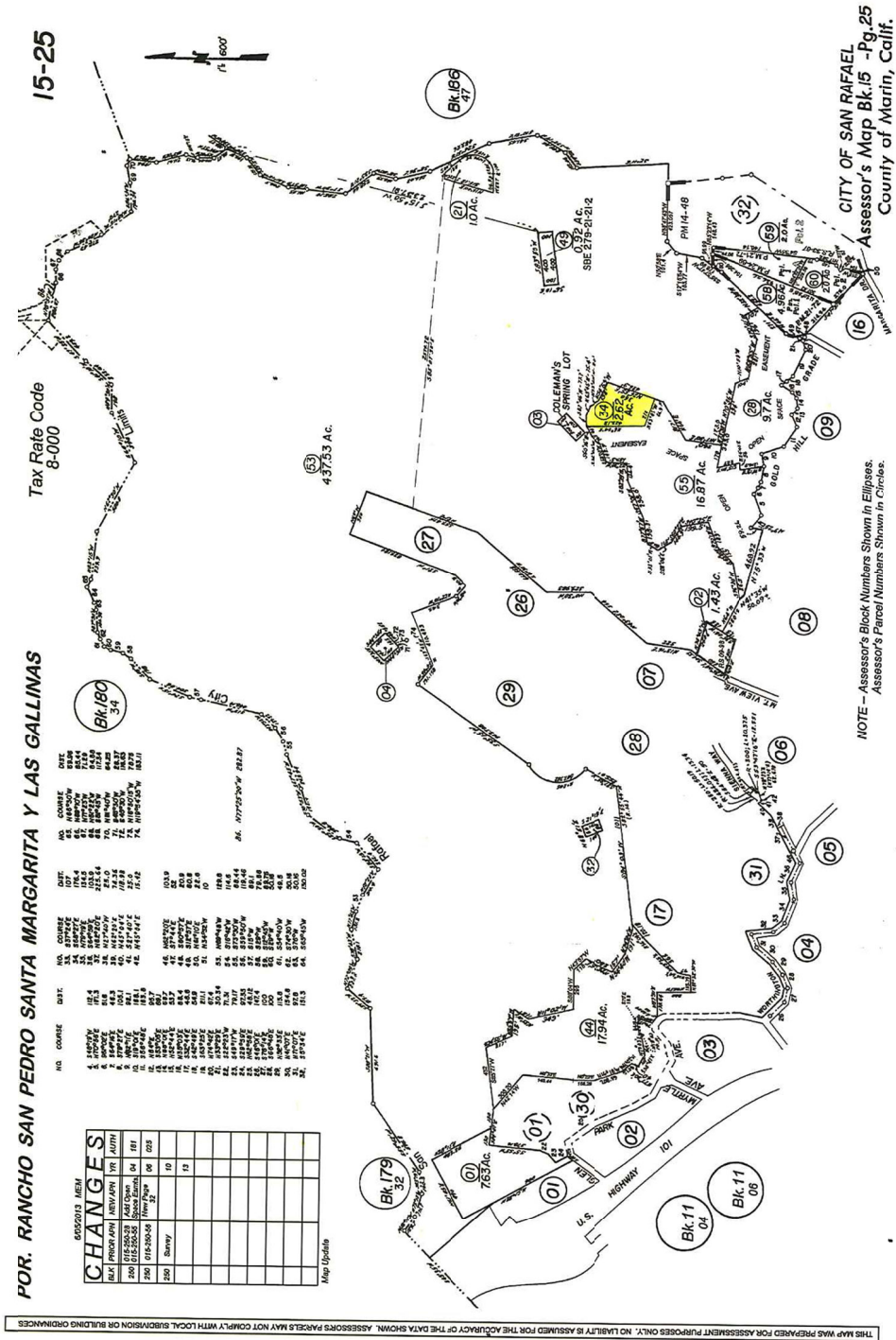
In the event of an opportunity to expand the City Open Space Inventory, whether by acquisition, transfer or donation, the following criteria should be applied to the San Rafael specific property to determine the overall value to the community and compliance with City goals.

Proposed properties need not meet each criterion. Criteria are not weighted as properties vary in assets and constraints. To be accepted, properties must satisfy specific elements of the guiding principles listed below:

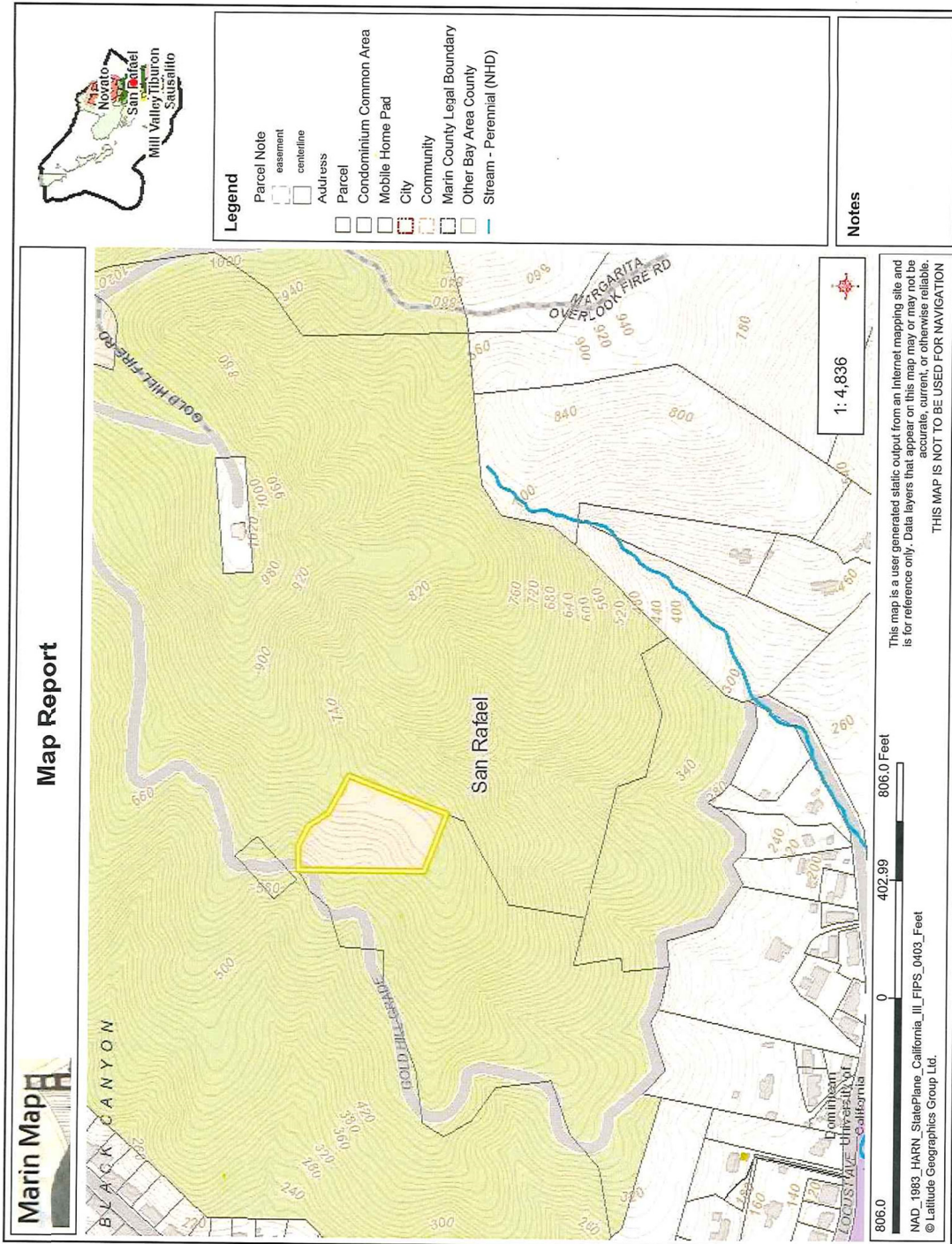
- A property must be located within the City of San Rafael City Limits.
- A property should provide a positive added public benefit including but not limited to:
 - Cultural/historical significance
 - Potential for recreational use
 - Preservation of natural space, environment, and/or existing use
 - Presence of sensitive wildlife habitat
- A property should provide public utility.
- A property should have adjacency to existing park/open space and/or connectively to existing or planned parks/open space as identified in the General Plan.
- A property should have title with no alternative ownership options for preservation and preferably fee simple title transfer.
- A property should have existing access.
- Public support must be demonstrated for the proposed acquisition.
- Endorsement by Boards and Commissions and community organizations must be demonstrated for acquisition of proposed property.
- The existing condition of the property should be environmentally stable and clear of significant safety or security issues.
- The location and status of the property should be free of significant liability issues.
- The property should not present a significant financial impact to City resources for acquisition, management, maintenance or security.
- A property should not require significant improvement or amenities.

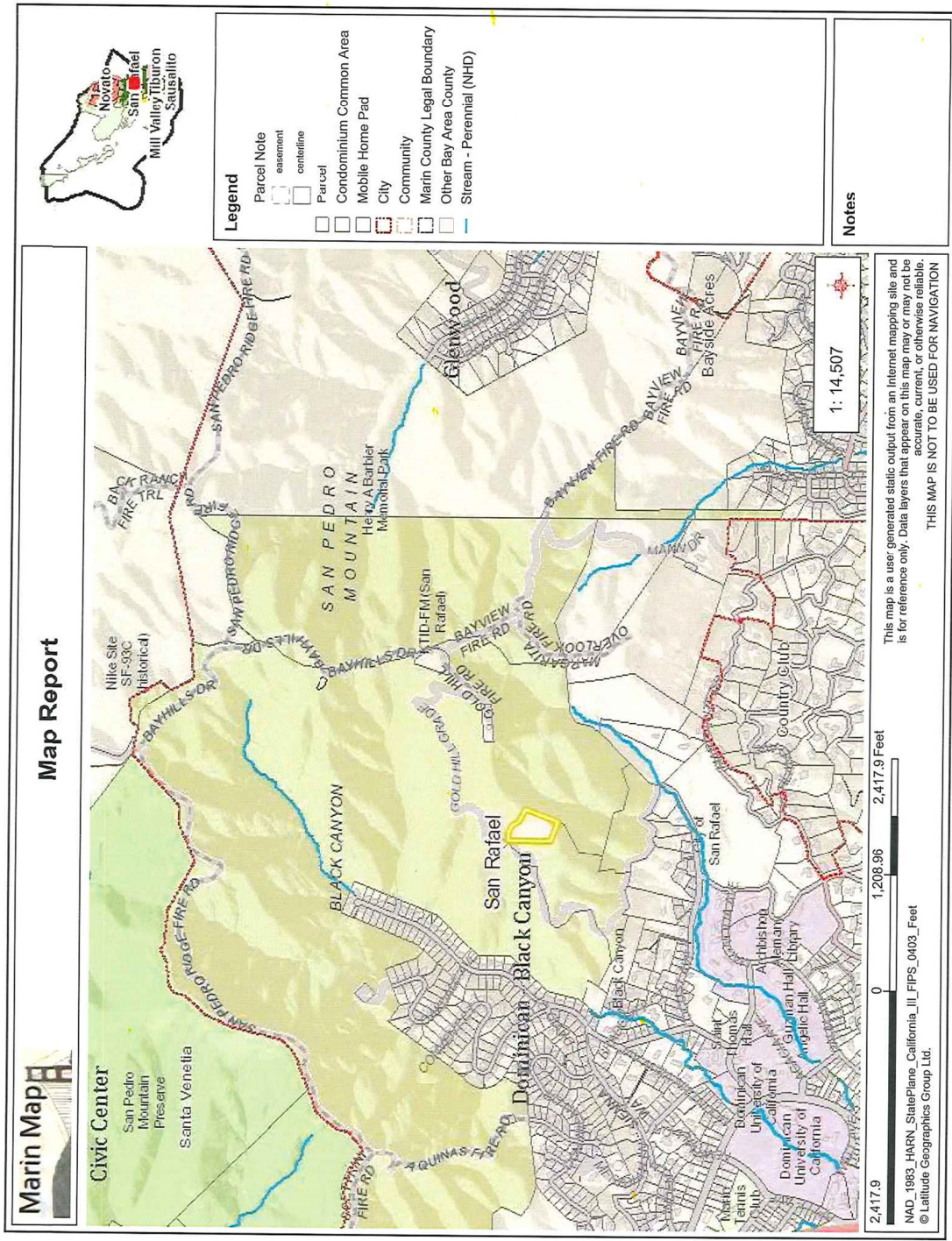
Exhibit “A”

Assessor's Parcel Map

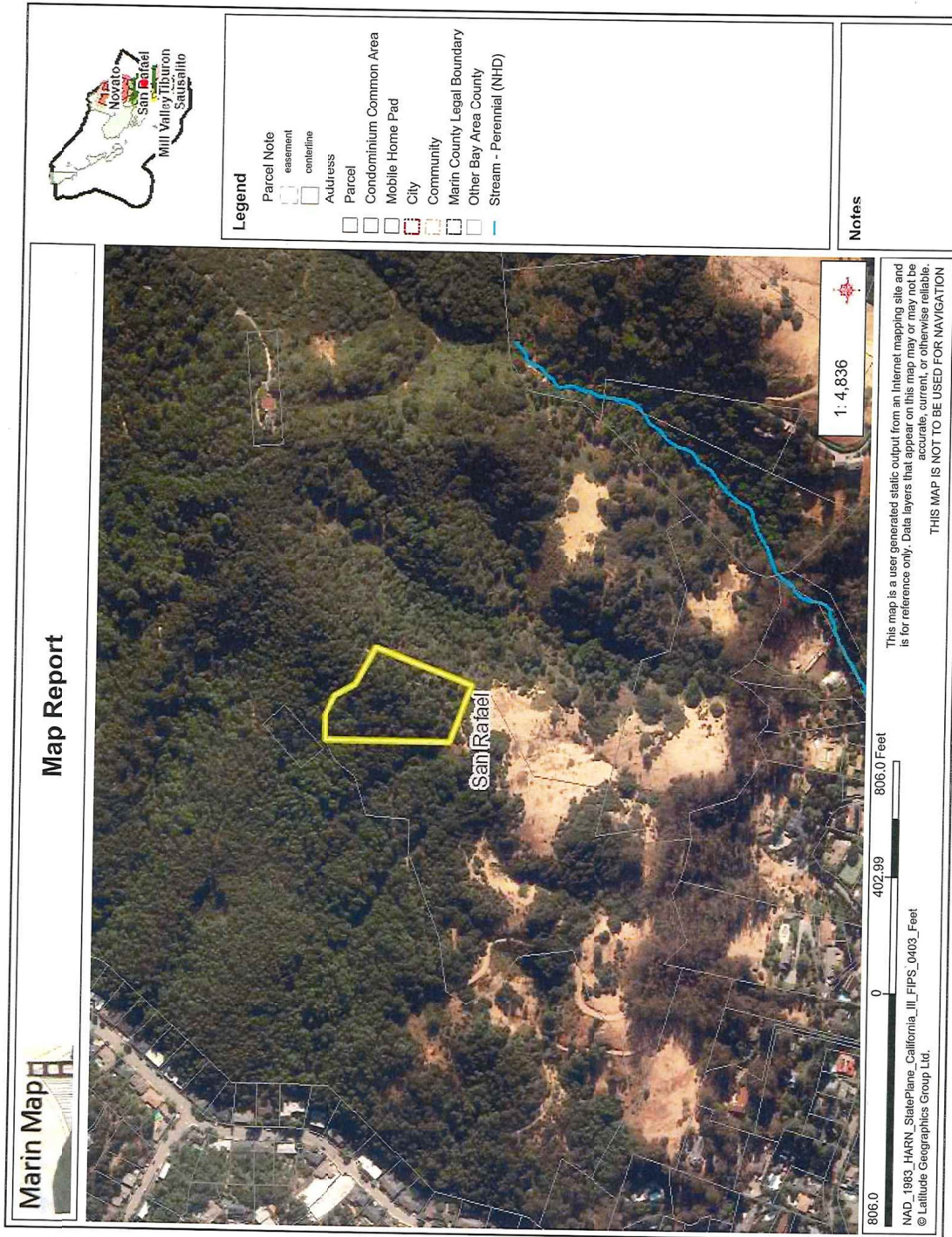






Marin County Topographic Maps

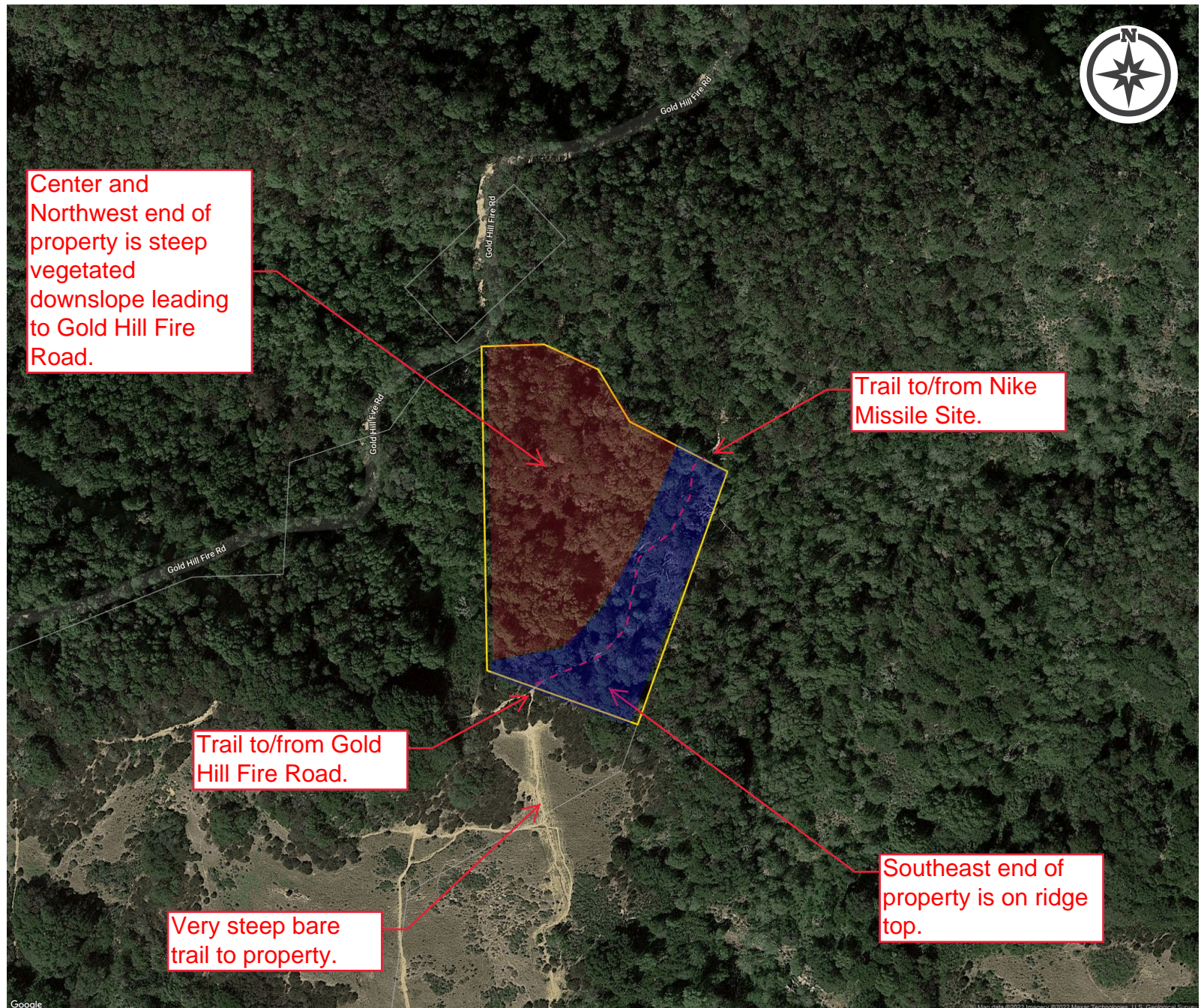




Marin County Aerial Map



Legend	
Label	
 SITUS	
Parcels	
 Parcels	
San Rafael City Limit	
 City Limit Line	
Marin County	
 Marin County	



From: notify@proudcity.com <notify@proudcity.com> on behalf of KatherineBurwell <notify@proudcity.com>

Sent: Tuesday, November 1, 2022 2:57 PM

To: Info <info@cityofsanrafael.org>

Subject: New submission from Contact City Council

Name

Katherine Burwell

Email

[REDACTED]

Subject

Possible Land Donation - Gold Hill

Message

Dear Mayor Kate & Council Members

I urge you to accept the donation by M.O.S.T. of the 2.6 acres on Gold Hill to be added to the Harry Barbier Park. I am an avid hiker and use those beautiful trails weekly. This adds to the livability of our City.

With Regards, Kathy Burwell

Address (optional)

[REDACTED]
San Rafael, CA 94901
United States
[Map It](#)