



Midpeninsula Regional
Open Space District

R-11-113
Meeting 11-33
December 14, 2011

AGENDA ITEM 12

AGENDA ITEM

Proposed purchase of the Peninsula Open Space Trust (Barret Creek Uplands) property as an addition to the Mount Umunhum area of Sierra Azul Open Space Preserve, located approximately ½ mile south of Almaden Reservoir in Barret Canyon (Santa Clara County Assessor's Parcel Number 562-23-004) and Determination that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA)

GENERAL MANAGER'S RECOMMENDATIONS

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA) as set out in this report.
2. Adopt the attached Resolution authorizing the purchase of the Peninsula Open Space Trust (POST) (Barret Creek Uplands) property.
3. Adopt the Preliminary Use and Management Plan recommendations contained in this report and name the property as an addition to the Mount Umunhum Area of Sierra Azul Open Space Preserve.
4. Withhold dedication of the property as public open space at this time.

SUMMARY

The General Manager is recommending Board approval to purchase the 158.51 acre POST (Barret Creek Uplands) property, at a price of \$250,000. The following report presents a description of the Barret Creek Uplands property, a Preliminary Use and Management Plan, the environmental review, the purchase terms and conditions, and the financial impacts of the proposed transactions.

DISCUSSION

The 158.51 acre Barret Creek Uplands property is located south of Almaden Reservoir, between Alamitos Creek and Barret Creek, in an unincorporated area of Santa Clara County. The property lies east of a prominent ridge descending from Loma Prieta Road to the Twin Creeks area. The property abuts the eastern boundary of the District's Sphere of Influence. The purchase of the POST Barret Creek Uplands property would protect the Barret Creek watershed,

wildlife habitat, watershed and may eventually provide a future trail connection between the Mt. Loma Prieta ridgetop and Santa Clara County Almaden Quicksilver Park.

Background

On March 10, 2010, the Board approved the purchase of the 158.51-acre Horstmeyer property and subsequent assignment of the purchase rights to POST and entered into a License and Management Agreement with POST to manage the property which enabled the District to pursue grant opportunities with the Santa Clara Valley Water District (SCVWD) (see Report R-10-31). The District was unsuccessful in obtaining grant funds from the SCVWD and now desires to purchase the subject property from POST. The Horstmeyer property is now known as the Barret Creek Uplands property.

Property Description (see attached map)

Situated along the western slopes of Barret Canyon, the property is bordered by District land to the west, the District's Hacienda Park properties to the south, and the former Marks property, along its north-eastern boundary, which was gifted to the District in December, 2009 (See report R-09-02). Private property adjoins the southeastern boundary and the private Twin Creeks property is situated along its northern boundary. The Barret Creek Uplands property has no deeded access from Alamitos Road to the north or Mount Umunhum-Loma Prieta Road to the south. However, an unsurfaced fire road which runs along the ridgeline from Loma Prieta Road to Twin Creeks provides limited access to the northwestern corner of the property. The main north-south ridgeline of the property is located along its western boundary. The property is characterized by steep ridgelines, rugged side slopes and several seasonal drainages, all of which drop steeply into Barret Canyon. The property supports dense chaparral and scrub oak on the upper slopes and patches of dense forest along the seasonal drainages into Barret Creek. Common mammals in the chaparral community include black-tailed deer, coyote, brush rabbit, and dusky-footed wood rat.

The fire road serves as patrol access to the adjoining Sierra Azul Preserve. The primary use of the land would be for watershed and watershed protection, wildlife habitat conservation, and to preserve future regional public trail opportunities.

USE AND MANAGEMENT

Planning Considerations

The property is located within the unincorporated area of Santa Clara County and is zoned HS (Hillside), requiring a 20 to 160 acre minimum lot size based upon a slope density formula. The property is comprised of one legal parcel and has a potential density of one residential site. Residential development of the upper portion of the property would be difficult because of the remote location, lack of deeded access, and absence of utilities. The property is subject to a Land Conservation (Williamson Act) Contract with the County of Santa Clara. In 2008, the former owner filed a Notice of Non-Renewal of the Land Conservation Contract which will terminate on January 1, 2018. Therefore, no further action would be required by the District to terminate this contract. The District would comply with the terms of this contract until the term has ended.

Preliminary Use and Management Plan (Next Steps)

The principal purpose of the Preliminary Use and Management Plan is to establish interim status quo District land management to be in effect between the purchase and the completion of a subsequent long-term plan. The Preliminary Use and Management Plan will remain effective until the Master Plan is approved for Sierra Azul Open Space Preserve. The Preliminary Use and Management Plan include posting signs and routine patrol. The property will be maintained in its current condition, with no changes anticipated. If changes to land use or the physical environment are proposed in the future, the plan would be subject to further environmental review and public input.

Public Access: Closed to public use.

Signs and Site Security: Review and install preserve boundary signs where appropriate.

Patrol: Routinely patrol the property utilizing the existing fire road.

Site Safety Inspection: There are no known safety hazards on the site.

Name: Name the property as an addition to the Mt. Umunhum area of Sierra Azul Open Space Preserve.

CEQA COMPLIANCE**Project Description**

The project consists of entering into an agreement to purchase the 158.51 acre POST (Barret Creek Uplands) property. The District would manage the property under the terms of the Preliminary Use and Management Plan. The property would be maintained in a natural condition and closed to the public.

CEQA Determination

The District concludes this project will not have a significant effect on the environment. It is categorically exempt from CEQA (California Environmental Quality Act) under Article 19, Sections 15301, 15316, 15317, 15325 and 15061(b)(3) of the CEQA Guidelines as follows:

Section 15301 exempts operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Under the terms of the Preliminary Use and Management Plan, there will be no expansion of use, and the property will remain in a natural condition and closed to public use.

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 Preliminary Use and Management Plan specifies that the land will not be developed and will remain in a natural condition.

Section 15317 exempts the acceptance of fee interests in order to maintain the open space character of an area. The District will acquire fee interest and maintain the open space character of the property.

Section 15325 exempts transfers of ownership of interests in land in order to preserve open space. The Preliminary Use and Management Plan ensures that the property is preserved as open space by incorporating it into the Mt. Umunhum Area of Sierra Azul Open Space Preserve.

The project is also exempt under 15061(b)(3), as there is no possibility the actions can have a significant effect on the environment.

TERMS AND CONDITIONS

The purchase agreement for the 158.51 acre Barret Creek Uplands property is based upon a purchase price of \$250,000 (approximately \$1,577 per acre) on an all cash basis at the close of escrow. The purchase price is considered fair and reasonable for a single building parcel with no deeded access rights and is supported by sales within this real estate market area. The property is vacant and being purchased on an “As-Is” basis. Staff has conducted site inspections of the property and is satisfied that no contamination or hazardous conditions exist on the property.

BUDGET CONSIDERATIONS

FY2011–12 Budget for New Land Purchases:

New Land	\$13,495,000
Land purchase commitments this fiscal year	(\$4,364,000)
POST Barret Creek Uplands property	(\$250,000)
Balaban Property (also on this agenda)	(\$800,000)
New Land Purchase Budget Remaining	\$ 8,081,000

The District Controller was consulted on this proposed purchase and has indicated that, considering cash flow and account balances, funds are available for this property purchase.

PUBLIC NOTICE

Public notice was also provided as required by the Brown Act.

NEXT STEPS

Upon approval by the Board of Directors, staff will proceed with the close of escrow for the purchase of the property. The License and Management Agreement with POST will terminate at

the close of escrow and the District's Foothills Field staff will continue to manage the property as part of the Mt. Umunhum area of the Sierra Azul Open Space Preserve.

Attachments:

1. Resolution
2. Map

Prepared by:

Allen Ishibashi, Real Property Specialist

Contact person:

Same as above

Graphics prepared by:

Alex Roa, GIS Technician

RESOLUTION 11-XX

**RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL
OPEN SPACE DISTRICT AUTHORIZING APPROVAL OF PURCHASE
AGREEMENT, AND AUTHORIZING 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 (SIERRA AZUL OPEN SPACE PRESERVE - LANDS OF PENINSULA
OPEN SPACE TRUST (BARRET CREEK UPLANDS))**

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

Section One. The Board of Directors of Midpeninsula Regional Open Space District does hereby accept the offer contained in that certain Purchase Agreement with Peninsula Open Space Trust, a California non-profit, public benefit corporation, 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 or other appropriate officer to execute the Agreement on behalf of the District to acquire the real property described therein (“the Barret Creek Uplands Property”).

Section Two. The General Manager, President of the Board of Directors or other appropriate officer is authorized to execute Certificate of Acceptance for the Grant Deed on behalf of the District.

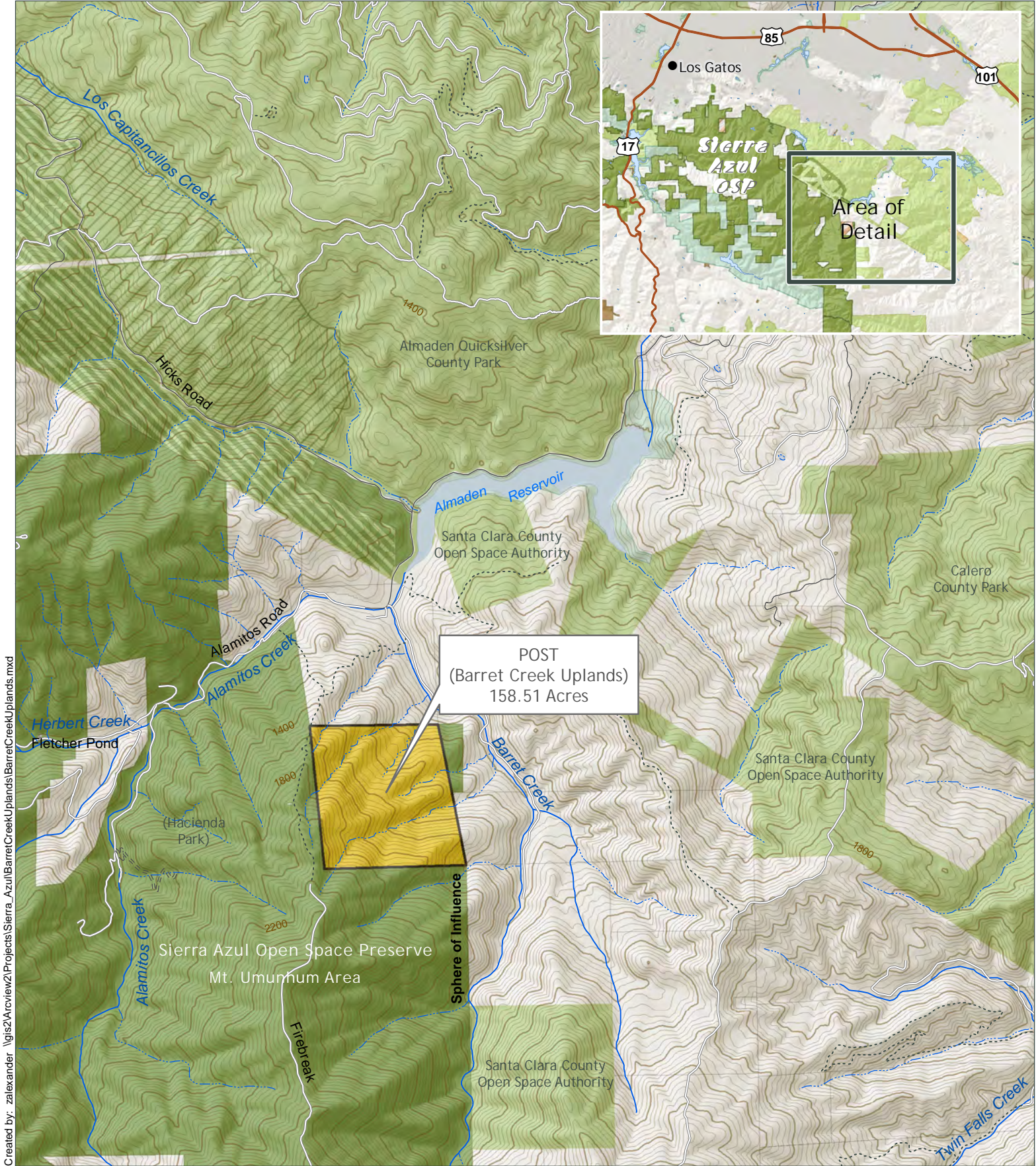
Section Three. The General Manager or the General Manager’s designee shall cause to be given appropriate notice of acceptance to the seller and to extend escrow if necessary.

Section Four. The General Manager is authorized to expend up to \$2,500 to cover the cost of title insurance, escrow fees, and miscellaneous costs related to this transaction.

Section Five. 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.

Section Six. The purpose of this Section is to enable the District to reimburse its general fund for the cost of certain land acquisitions. The District wishes to finance certain of these real property acquisitions and expects to use tax-exempt debt, such as bonds, but a tax-exempt financing is not cost-justified for the District unless the principal amount of the financing is large enough to justify the related financing costs. Consequently, it is the District’s practice to buy property with its general funds and, when a tax-exempt financing is cost-justified based on the aggregate value of acquisitions, to issue tax-exempt obligations to reimburse itself for previous expenditures of general funds. These general funds are needed for operating and other working capital needs of the District and are not intended to be used to finance property acquisitions on a long-term basis.







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Exhibit A: Proposed Addition of POST (Barret Creek Uplands)
Sierra Azul Open Space Preserve

Midpeninsula Regional
 Open Space District
 December, 2011

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|---|---|---|
|  Proposed Addition |  Land Trust |  MROSD Conservation or Agricultural Easement |
|  MROSD Preserves |  Watershed Land | |
|  Other Protected Open Space or Park Lands |  Other Public Agency | |

