



Midpeninsula Regional
Open Space District

R-16-39
Meeting 16-08
April 13, 2016

AGENDA ITEM 6

AGENDA ITEM

Proposed Purchase of the Freudenberg property as an addition to Sierra Azul Open Space Preserve located off of Weaver Road in unincorporated Santa Clara County (Assessor's Parcel Number 558-46-001).

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 Freudenberg property at a cost of \$540,000.
3. Adopt a Preliminary Use and Management Plan for the property, as set out in the staff report.
4. Indicate the intention to withhold dedication of the Freudenberg property as public open space.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to purchase the 24.41-acre Freudenberg property (Property) at a purchase price of \$540,000.00 as an addition to Sierra Azul Open Space Preserve (Preserve). The following report presents a description of the Property, a Preliminary Use and Management Plan, the District's environmental review, the purchase terms and conditions, and financial considerations. The proposed purchase is identified as part of Measure AA Project # 22. The Fiscal Year (FY) 2015-16 Budget contains sufficient funds to cover the cost of this purchase.

MEASURE AA

The proposed property purchase supports the goals of Measure AA Portfolio #22, Sierra Azul: Cathedral Oaks Public Access and Conservation Projects, as a desirable addition to the Preserve for the purpose of preserving additional open space and expanding the wildlife corridor in the upper Los Gatos Creek watershed.

DISCUSSION

The Property is bounded on two sides by the 18,910-acre Sierra Azul Open Space Preserve and drains into the Los Gatos Creek watershed. The property is visible from within the Preserve and from the District's Bear Creek Redwoods and El Sereno Open Space Preserves. The reasons for

this purchase include advancement of the Measure AA Portfolio #22, ridgeline and view shed protection, protection of the Los Gatos Creek Watershed, and control of a known access point to an illegal single-track trail that runs from Weaver Road to Alma Bridge Road.

Background

On June 9, 2015, the Freudenberg's and County of Santa Clara (County) entered into a settlement agreement regarding drainage issues from the County-maintained Weaver Road and illegally-constructed structures on the Freudenberg Property. The Freudenbergs own the 24.41-acre parcel that the District is interested in purchasing. They also own an adjacent 6.3-acre parcel that is improved with a single-family residence, which the District is not proposing to purchase. As part of the settlement, the County was required to complete significant drainage improvements below Weaver Road and the Freudenberg's were required to remove unpermitted structures from both the 6.3-acre parcel and the 24.41-acre parcel. A portion of a pool and pool house had extended from the 6.3-acre parcel onto the adjacent 24.41-acre parcel. Those improvements have been removed and the area has been restored.

Property Description and Regional Context (see attached map)

The rectangular 24.41-acre Property consists of one legal parcel, situated in unincorporated Santa Clara County. Access to the property is from Weaver Road (via Soda Springs Road). The property is situated just beyond the intersection of Soda Springs Road and Weaver Road. Rising to approximately 2,300 feet in elevation, the property offers panoramic views of the Preserve, Santa Clara Valley up towards the peninsula, Lexington Reservoir, and the Santa Cruz Mountains. Situated within the Los Gatos Creek Watershed, the property drains into both Hendry's Creek and Soda Spring Creek.

The landscape of the property consists of oak woodland and mixed chaparral, on a ridgeline above a steep canyon. Stands of oak woodland, including tanbark oak and canyon live oak, are dispersed over the property along with shrub lands of manzanita, chamise, and other plants associated with mixed chaparral. The property provides varied habitat for animals associated with the middle elevations of the Preserve, including mountain lions.

Land Use and Improvements

The property is not currently improved with any structures. As mentioned previously, the property was improved with a pool house and a portion of a pool, but those improvements have been removed, the site re-graded to match the natural contours, and the work has been signed off by the County. Associated with the County's repair project below Weaver Road, two drainage pipelines and an outlet were installed on the property by the County and the Freudenberg's contractor to direct water runoff from the area below Weaver Road to a natural drainage on the property. If this purchase is approved, future maintenance obligations of these drainage features would be retained by the Freudenbergs (or subsequent property owners of the adjacent 6.3-acre parcel. These obligations would be memorialized via a separate drainage easement that would be concurrently granted back to the Freudenberg's (refer to terms and conditions section). In addition to the permanent drainage improvement, a temporary v-ditch and 12-inch pipeline have been installed on the 24.41-acre parcel to resolve runoff issues until vegetation is re-established on the regarded area of the property. The property also has a short access road that extends to the southeast portion of the property, which also serves as the starting point for an illegal single-track trail.

USE AND MANAGEMENT

Planning Considerations

The Property is comprised of one legal parcel, located in unincorporated Santa Clara County and outside the urban service area or sphere of influence of any incorporated municipality. The 24.41-acre parcel has a General Plan designation of Hillside (73% of the property,) and Other Public Open Lands (27% of the property), with a zoning designation of Hillside District (HS District) over the entire property. Per the Santa Clara County General Plan and zoning regulations, recreation, open space, and natural preserves are allowable uses in HS Districts. A finding of compliance with the General Plan for all open space acquisitions by the District in Santa Clara County was made by the Santa Clara County Planning Department in 1999.

If purchased, the Property would be incorporated into the 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 maintenance of the Property in its natural condition, as described more fully below. 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:	Designate the Property as closed to public use at this time.
Signs and Site Security:	Install preserve boundary and closed area signs, where appropriate.
Fences and Gates:	Install gates and fencing as necessary on the access road and illegal trail to prevent unauthorized entry and use.
Roads and Trails:	Maintain the access route on the site in a serviceable condition. Implement maintenance and minor erosion and sediment control measures in accordance with District standards. Remove the existing illegal single track trail that begins on the property.
Patrol:	Routinely patrol property using existing access.
Structures and Improvements:	Periodically inspect the newly installed drainage features for issues.
Resource Management:	Conduct invasive plant and animal management activities consistent with the District's Resource Management Policies.
Wildfire Fuel	Implement standard District-wide fuel management and defensible space

Management: practices consistent with the District's Resource Management Policies.

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.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 24.41-acre Freudenberg Property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a Preliminary Use and Management Plan, including minor erosion control and sediment control measures that may be conducted along existing driveways and roads to prevent erosion and water quality degradation. 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 from the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, 15317, 15325 and 15061 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 specifies no alteration or expansion of use at this time beyond activities associated with the repair and maintenance of the existing roads and minor improvements.

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 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 in the property in order to maintain the open space character of the site.

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 and ensure that the open space will be preserved. The PUMP ensures that the property is preserved as open space by incorporating it into the Sierra Azul Open Space Preserve.

Section 15061(b)(3) exempts actions recommended in the PUMP as it has been determined that there is no possibility the recommended actions will have a significant effect on the environment.

TERMS AND CONDITIONS

The 24.41-acre Freudenberg Property is proposed for purchase at a price of \$540,000.00. The purchase price is considered fair and reasonable for a larger, buildable property. The purchase

price is also supported by a fair market value appraisal commissioned by the District in February of 2015 and is supported by current market activity in the rural residential market area.

As stated earlier, this proposed purchase would require the District to concurrently grant a drainage easement back to the Freudenberg's to address the new permanent drainage improvements that run across the 24.41-acre property. The drainage improvements were installed by both the County and the Freudenberg's contractor, signed off by County inspectors, reviewed by the District's Engineering and Construction staff, and will be maintained by the Freudenberg's (or subsequent owners of the adjacent 6.3-acre residential parcel). The Property would be purchased as-is on an all-cash basis.

FISCAL IMPACT

FY2015–2016 Budget for New Land Purchases:

New Land Purchases Budget (Adjusted Mid-Year)	\$17,800,000.00
Land approved for purchase this year	(\$12,762,225.00)
Freudenberg Property	(\$540,000.00)
New Land Purchase Budget Remaining	\$4,497,775.00

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

BOARD COMMITTEE REVIEW

The District's Real Property Committee held a meeting at the District Administrative Office on June 18, 2015 to discuss the proposed property purchase. Notice of the meeting was distributed to property owners of land located adjacent to and surrounding the property. No neighbors or members of the public attended the meeting. Three members of the Real Property Committee were in attendance. Staff provided a presentation of the property, described how it would be managed as an extension of the adjacent Preserve, and reviewed the proposed Preliminary Use and Management Plan and the purchase terms. The Real Property Committee approved recommending this purchase to the full Board of Directors by a 3-0 vote.

PUBLIC NOTICE

Property owners of land located adjacent to or surrounding the subject property have been mailed a copy of the agenda for this meeting. Accordingly, all notice required by the Brown Act has been provided.

NEXT STEPS

Upon approval by the Board of Directors, staff would proceed with the close of escrow for the purchase of the property by June 30, 2016, and take the next steps identified in the PUMP as contained in this report. The District's South Area Outpost Field Office would manage the property as an addition to Sierra Azul Open Space Preserve.

Attachments:

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Authorizing General Manager or Other Officer to Execute Certificate of Acceptance of Grant to District, Authorizing the President of the Board of Directors or General Manager to Execute the Easement Deed, 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 Freudenberg)
2. Location Map

Responsible Department Manager:

Michael Williams, Real Property Manager

Prepared by:

Allen Ishibashi, Senior Real Property Agent

RESOLUTION 16-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF PURCHASE AND SALE AGREEMENT, AUTHORIZING GENERAL MANAGER OR OTHER OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE OF GRANT TO DISTRICT, AUTHORIZING THE PRESIDENT OF THE BOARD OF DIRECTORS OR GENERAL MANAGER TO EXECUTE THE EASEMENT DEED, 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 FREUDENBERG)

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 Lowell Freudenberg and Pamela Freudenberg, husband and wife as joint tenants (Seller), 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 Freudenberg Property”).

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

SECTION THREE. The General Manager, President of the Board of Directors, or other appropriate officer is authorized to execute the Drainage Easement Deed to the Seller.

SECTION FOUR. The General Manager or the General Manager’s designee is authorized to provide notice of acceptance to the seller and to extend escrow if necessary.

SECTION FIVE. 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, and other miscellaneous costs related to this transaction.

SECTION SIX. 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 _____, 2016, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Secretary
Board of Directors

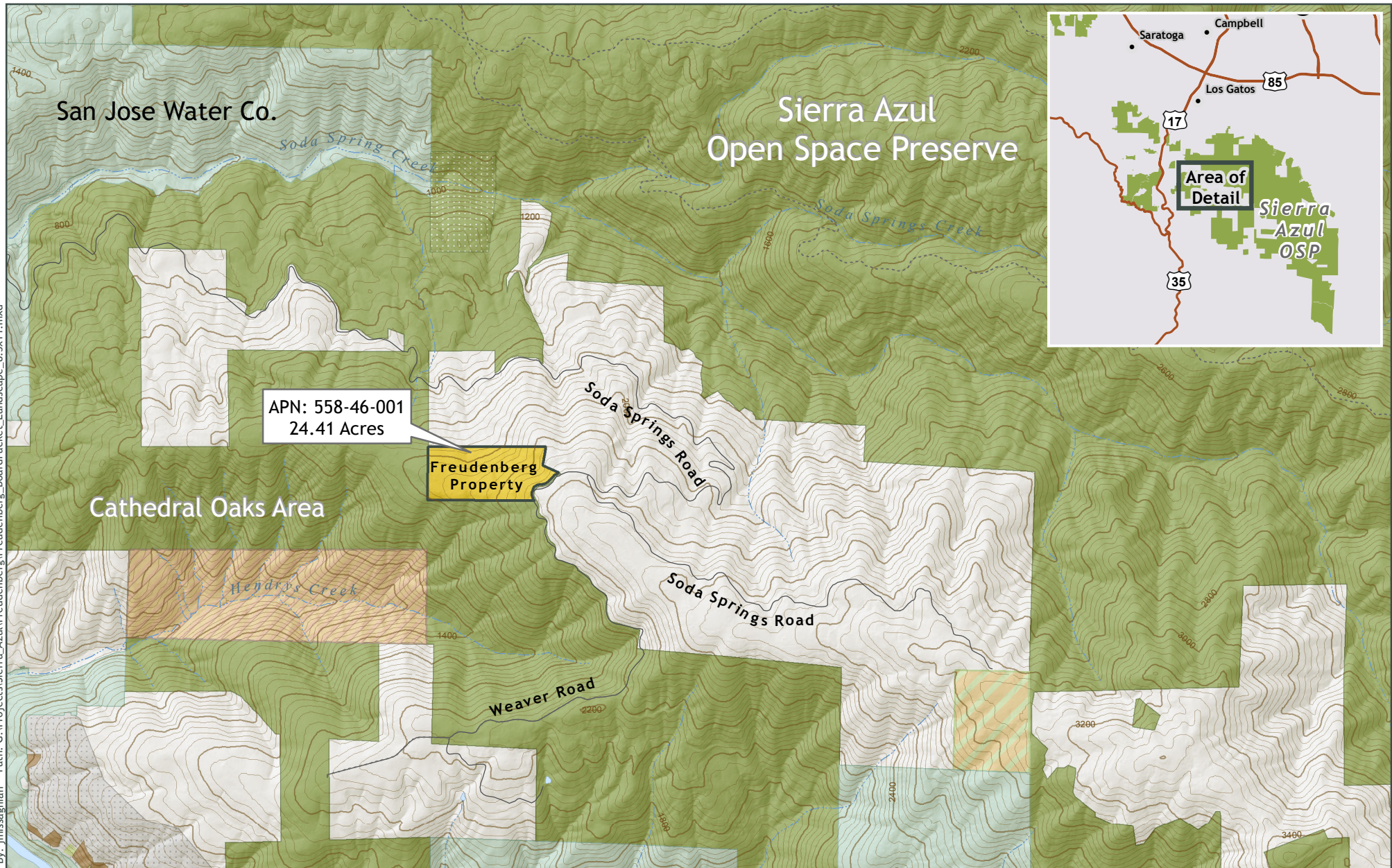
President
Board of Directors

APPROVED AS TO FORM:

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.

District Clerk



Attachment A: Freudenberg Property

 MROSD Preserves

 Land Trust

 Watershed Land

 Management Agreement

 Non MROSD Conservation or Agricultural Easement

 Partial MROSD Ownership

 Highlighted Property

 Private Property

 Developed Land

Midpeninsula Regional
Open Space District
(MROSD)



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June, 2015

