



Midpeninsula Regional  
Open Space District

R-16-106  
Meeting 16-20  
August 24, 2016

## AGENDA ITEM 4

### AGENDA ITEM

Proposed Purchase of the Petersen property as an addition to Sierra Azul Open Space Preserve, located off of Hicks Road east of Reynolds Road in unincorporated Santa Clara County (Assessor's Parcel Number 575-11-022)

### 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 a Resolution authorizing the purchase of the Petersen property at a cost of \$700,000.
3. Adopt a Preliminary Use and Management Plan for the property, as set out in this report.
4. Approve a budget adjustment of \$700,000 to the Real Property Land Purchase Fund.
5. Indicate the intention to withhold dedication of the Petersen property as public open space at this time.

### SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to purchase the 23.41-acre Petersen property (Property) at a bargain sale purchase price of \$700,000 as an addition to Sierra Azul Open Space Preserve (Preserve). As part of the purchase approval, a line item budget adjustment of \$700,000 to the Real Property Land Purchase Fund is required to proceed with the acquisition. 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 # 24.

### MEASURE AA

The proposed property purchase supports the goals of Measure AA Portfolio #24, Sierra Azul: Rancho de Guadalupe Family Recreation, as it serves to acquire lands in order to protect natural resources, enhance habitat for rare species, and will support the future development of accessible multi-use trails with amenities such as parking and family recreation within the Rancho de Guadalupe area of Sierra Azul Open Space Preserve.

## **DISCUSSION**

The Property is bounded to the west by the 18,934-acre Sierra Azul Open Space Preserve (Preserve) and drains into the Guadalupe Creek watershed. The property is visible from within the Preserve and from Almaden Quicksilver County Park. The reasons for this purchase include advancement of Measure AA Portfolio #24 to protect natural resources, view shed protection, habitat protection, and protection of the Guadalupe Creek Watershed, as well as a potential site for a future employee residence.

### **Property Description and Regional Context (see attached map)**

The rectangular shaped 23.41-acre Property consists of one legal parcel, situated in unincorporated Santa Clara County. Primary legal access to the property is gained from Hicks Road through an adjacent parcel to the north via a 60-foot wide easement that is improved with a 12-foot wide dirt road. A more direct dirt access road comes off of Reynolds Road over District property, however the Property's easement rights to use this secondary access are much more limited in scope.

The Property rises to approximately 1,360 feet in elevation, and has excellent views of the higher elevations within the Preserve, downtown San Jose, Almaden Quicksilver County Park and the Guadalupe Reservoir. The Property is situated in the Guadalupe Creek Watershed and includes a seasonal tributary that flows into Guadalupe Creek.

The parcel is a mix of oak woodland and other plants associated with mixed chaparral. The native vegetation types include the sensitive communities of Big Berry Manzanita Series and California Bay-Coast Live Oak Series and the biologically, highly-significant Annual Grassland Series. Two species of rare plants have been observed on neighboring parcels within the Preserve. The Property provides varied habitat for animal species associated with the lower elevations, including larger mammals such as deer, coyotes, bobcats, and mountain lions. A wide variety of bird species occupy and migrate through the general area.

### **Land Use and Improvements**

The Property is unimproved with the exception of the following infrastructure improvements: a domestic water well, a graded dirt road that provides direct access to both Hicks and Reynolds Roads, a wood shade structure for a developed spring, and barbed wire fencing along the property lines. The main access road is contained within a 60-foot wide easement that crosses the adjacent private property to the north from Hicks Road. There are both above grade and below grade electrical utilities on the property.

The existing 120-foot deep well is unpermitted. However, recent testing (2015) confirmed a sustained flow of 16 gallons per minute and considered the well to be a productive and reliable water source. (As 2015 is the fourth year of below-normal rainfall for the area, it is anticipated that sustained flow rates in normal year would be even higher.) Water testing conducted at the same time did not detect the presence of any contaminants or other substances that would prevent the well from being used as a potable water source.

### **Water Rights**

The 21-acre private property located to the north utilizes three developed springs on the Petersen Property that provide the sole source of water to the residence on that property. When first investigated, there were no recorded rights to use these springs on the Petersen property.

Through additional research and conversations with the Petersens and the adjacent private property owner, District staff learned that the spring water use was established in 1949 when both properties were owned by the Knoff family and the Knoffs constructed their house on the property to the north. District staff also discovered that when the Petersen's purchased their property from the Knoffs, a condition of the sale was that the rights to use the three springs on the Petersen Property would be reserved as a spring easement. Since these spring rights were never formalized, District staff is working with the Petersens and the private property owner to resolve the spring water use and prepare an easement agreement acceptable to the District. Under the spring water easement, the District would have no obligation to provide water to the private property in the event that the springs ran dry.

## **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 23.41-acre parcel has a General Plan designation of Hillside with a zoning designation of Hillside-Design Review Required (HS-d1). Per the Santa Clara County General Plan and zoning regulations, recreation, open space, and natural preserves are allowable uses in HS-d1 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, including the planning of trail routes, trail connections, and potential access points would be coordinated with the District's continuing planning efforts for the Preserve and/or public access planning for the Rancho de Guadalupe area of the Preserve.

The District may, in conjunction with continuing planning for the Preserve, explore the feasibility of developing a portion of the property for an employee residence to support safety and stewardship in the Preserve. The property is strategically located in an area of the District with few employee residences. The presence of a reliable well, electrical service, and a building pad with easy access provides the District with a potentially viable option to develop a security residence for the Mt. Umunhum area.

### **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. 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.  
Measure AA sign placement shall be in compliance with the Measure AA Sign Guidelines.

Fences and Gates:	Install gates and fencing on the access road to prevent unauthorized entry and use, and work with the private property owner to the east to provide through access to adjoining areas of the Preserve.
Roads and Trails:	<p>Access roads to be used for District patrol, maintenance and emergency purposes.</p> <p>Maintain the unpaved access way from Reynolds Road and unpaved internal roads on the site in a serviceable condition. Implement maintenance and minor erosion and sediment control measures in accordance with District standards.</p>
Water Rights and Water Resources:	<p>A small tributary bisects the property and flows into Guadalupe Creek to be protected per District's Resource Management Policies.</p> <p>The existing 120-foot deep water well located on the property is not permitted. Land and Facilities Services Department to consult with Santa Clara Valley Water District on options to formalize use.</p> <p>The private property owner to the north will continue utilizing and maintaining three developed springs on the property. Formal easement rights to this spring are being resolved between the Petersens and the private property owner with direct District oversight.</p>
Patrol:	Routinely patrol property using existing access road.
Resource Management:	Conduct invasive plant and animal management activities consistent with the District's Resource Management Policies.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space 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 at this time.
Subsequent Planning:	<p>Subsequent planning for the property, including trail corridors, trail connections, and potential access points would be coordinated with the District's continuing planning efforts for the Preserve and/or planning for the Rancho de Guadalupe area of the Preserve.</p> <p>In conjunction with continuing planning for the Preserve, the District may explore the feasibility of developing a small portion of this property for an employee residence to support safety and stewardship in the Preserve.</p>

## **CEQA COMPLIANCE**

### **Project Description**

The project consists of the purchase of the 23.41-acre Petersen Property as an addition to the District's Sierra Azul Open Space Preserve and concurrent adoption of a Preliminary Use and Management Plan (PUMP), 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.

### **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, 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 maintenance of the existing access road, installation of standard District access gates, and minor activities to implement maintenance and minor erosion and sediment control measures in accordance with District standards.

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, will remain in a natural condition, and will be designated as an addition to the District's Sierra Azul Open Space Preserve.

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 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 23.41-acre Petersen Property is proposed for purchase at a bargain sale price of \$700,000. The fair market value for the property was appraised at \$950,000 in November 2015. The property would be purchased on an "As-Is" and all-cash basis. Escrow would close on this transaction by September 30, 2016.

## **FISCAL IMPACT**

If the purchase of the Petersen property is approved, the Board will also approve an adjustment to the Real Property Department budget in the amount of \$700,000 under the New Land Purchases Account.

Petersen Property Purchase Amount	\$700,000
Total Land purchases approved to date for FY 2016-2017	\$0
Total (if approved)	\$700,000

Measure AA Portfolio #24 was allocated with \$10,078,000 in the ordinance Expenditure Plan. This land acquisition supports public access and stewardship for the Sierra Azul Rancho de Guadalupe Family Recreation and Interpretive Projects. 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 and budget adjustment.

The following table is provided to outline the Measure AA Portfolio budget, costs to date, and fiscal implications related to the Ranch de Guadalupe Projects:

	Budget (in \$ millions)
MAA 24 Portfolio Total	\$10,078,000
Spent to Date	\$ 300,000
Petersen Purchase	\$ 700,000*
Balance Remaining	\$ 9,078,000

\*Includes \$10,000 purchase option deposit

## BOARD COMMITTEE REVIEW

The District's Real Property Committee held a meeting at the District Administrative Office on July 19, 2016 to discuss the proposed property purchase. Notice of the meeting was distributed to property owners of land located adjacent to and surrounding the property. One member 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 PUMP 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. 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 September 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, 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 Petersen)

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, 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 PETERSEN)**

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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 Mark J. Petersen and Cathleen M. Petersen, Trustees of the Mark J. Petersen and Cathleen M. Petersen 2006 Revocable Living Trust, 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 Petersen Property”).

**SECTION TWO.** The Board of Directors of Midpeninsula Regional Open Space District authorizes the expenditure of \$700,000.00 covering the purchase price funds for the Petersen Property, including an option deposit of \$10,000.00.

**SECTION THREE.** 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 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:**

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Secretary  
Board of Directors

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President  
Board of Directors

**APPROVED AS TO FORM:**

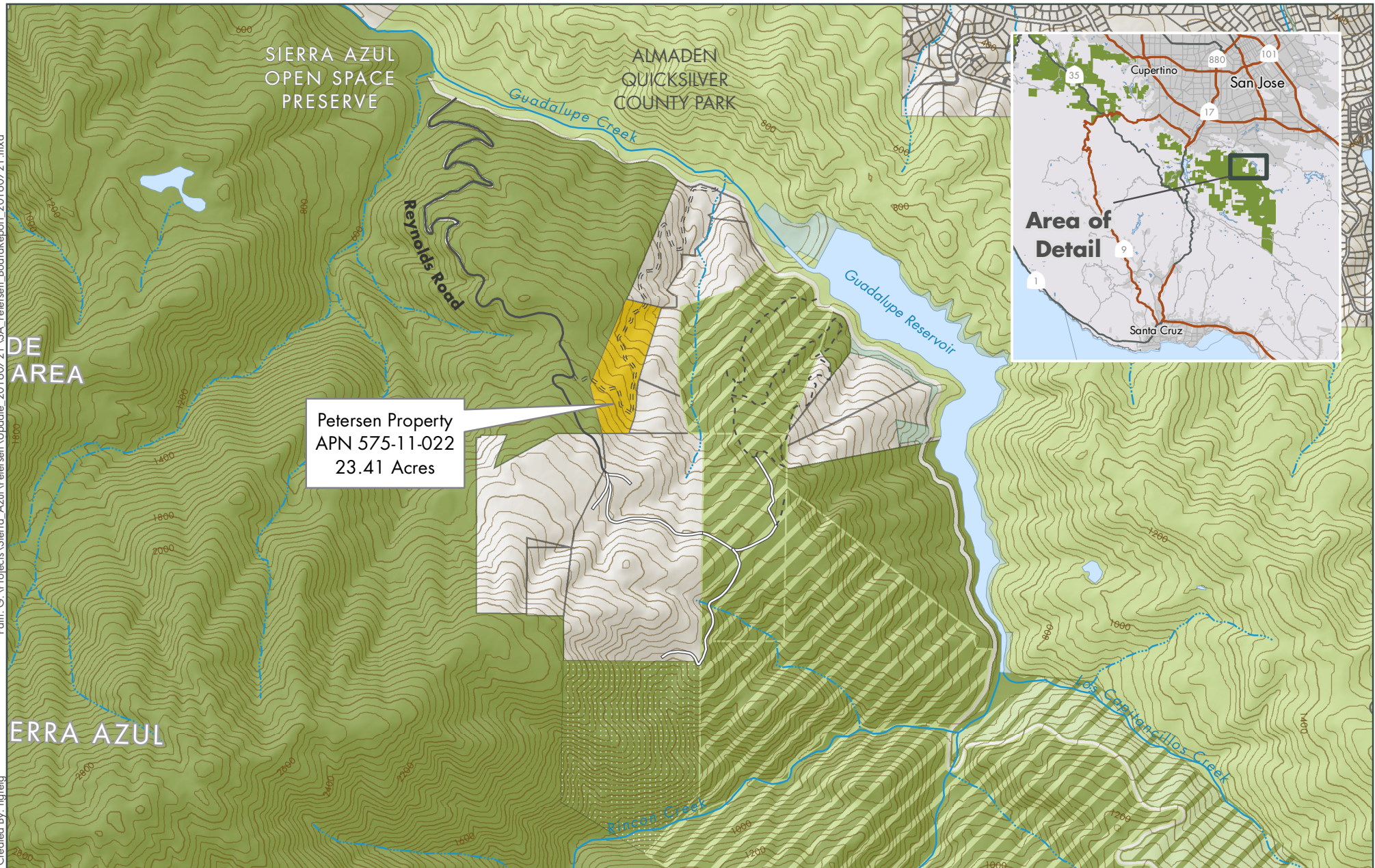
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General Counsel

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.

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District Clerk



## Petersen Property

- |  |                         |  |                                      |  |                   |
|--|-------------------------|--|--------------------------------------|--|-------------------|
|  | MROSD Preserves         |  | Watershed Land                       |  | Petersen Property |
|  | Other Protected Lands   |  | Easement Over MROSD                  |  | Private Property  |
|  | Partial MROSD Ownership |  | MROSD Easement Over Other Open Space |  |                   |

Midpeninsula Regional  
Open Space District  
(MROSD)  
August 2016



Miles  
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