



Midpeninsula Regional
Open Space District

R-11-84
Meeting 11-22
August 24, 2011

AGENDA ITEM 8

AGENDA ITEM

Approve the Lease and Management Agreement with Peninsula Open Space Trust and authorize the waiver of the District's right of first refusal for the Carilli property, located in Hendry's Creek as an addition to the Cathedral Oaks Area of the Sierra Azul Open Space Preserve, at 20610 Aldercroft Heights Road, Los Gatos in unincorporated Santa Clara County (Santa Clara County Assessor's Parcel Numbers 558-27-007, 558-27-008, and 558-51-005)

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. Authorize the General Manager or his designee to waive the District's right of first refusal for Peninsula Open Space Trust's purchase of the Carilli property.
3. Authorize the General Manager to sign the Lease and Management Agreement with Peninsula Open Space Trust for the Carilli Property
4. Adopt the Preliminary Use and Management Plan contained in this report, including naming the property as an addition to the Cathedral Oaks Area of the Sierra Azul Open Space Preserve.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to enter into a lease and management agreement with Peninsula Open Space Trust (POST) to manage the Carilli Property anticipated to be purchased by POST. The District is also proposing to waive its right of first refusal for two of the Carilli properties to allow POST's purchase to proceed. The following report presents a description of the Carilli Property, a Preliminary Use and Management Plan, the environmental review, the terms and conditions, and the financial impacts of the proposed transaction.

DISCUSSION

The 117.14 acre Carilli property is located east of the Lexington Reservoir in the middle portion of the Hendry's Creek canyon. In 1990, the District purchased a 70 acre property from Mr. Carilli along Weaver Road forming the upper watershed of Hendry's Creek (see report R-90-29). As part of this transaction, the District received a right of first refusal on 116 acres of the Carilli property (Parcel 1 and 2 on the attached map). In 2007, Mr. Carilli purchased an adjoining one acre parcel identified as Parcel 3 on the attached map.

Because Hendry's Creek bisects the length of the subject property, the Santa Clara Valley Water District (Water District) is interested in partnering with the District to protect this watershed. POST has entered into a purchase and sale agreement to acquire the Carilli property while the District works with the Water District on a potential purchase partnership to eventually purchase the property from POST. More information on this potential partnership will be brought to the Board of Directors at a later date.

POST's purchase of the Carilli property will consist of two separate transactions which will allow the seller to vacate residences and remove and dispose of all structures, trailers, personal property and debris from the property before each parcel is conveyed to POST free and clear of occupants and most improvements. The proposed lease and management agreement would go into effect at the time each property is transferred to POST. POST's purchase of Parcel 1 and 2 is contingent upon the District waiving its right of first refusal for each of these parcels.

Property Description

The 117.14 acre Carilli property is located east of Lexington Reservoir in the middle and upper portions of Hendry's Creek canyon (see attached map). The property is bounded by 2009 POST (Moore) property addition to the north (see report R-09-14) and the Cathedral Oaks area of Sierra Azul Open Space Preserve to the south and east. Private properties border the property to the west and along its southeastern corner. The property is accessible from a deeded access road which runs along Hendry's Creek through the private property to the west via Aldercroft Heights Road. Hendry's Creek is a year-round creek which flows from Sierra Azul Open Space Preserve into Lexington Reservoir. The property is characterized by steep north and south facing forested side slopes, several tributaries, drainages and springs, all of which flow into Hendry's Creek canyon. Vegetation on the property includes bay, big leaf maple, sycamore, white alder, oaks and some Douglas fir. The upper south facing slopes include chamise chaparral and sagebrush. Common mammals in the chaparral community include black-tailed deer, bobcat, mountain lion, and brush rabbit. Trout up 12 inches in length migrate upstream from Lexington Reservoir and have been spotted in Hendry's Creek. The property also provides potential yellow-legged and red-legged frog habitat. The Hendry's Creek canyon is a natural extension of the Preserve because of its watershed and a wildlife corridor values.

Existing Structures and Improvements

A dirt access road traverses approximately two-thirds of the length of the property along the north side of Hendry's Creek. Numerous unpermitted structures and trailers in poor to fair condition are located along this road. At the eastern boundary of Parcel 1, a golf green approximately one acre in size was built by the current property owner. The only public utility

serving the property is telephone lines. As a part of POST's purchase of the Carilli property, all structures, improvements, personal property and debris will be removed by the seller.

USE AND MANAGEMENT

Planning Considerations

The property is located in an unincorporated area of Santa Clara County and zoned HS (Hillside), requiring a 20- to 160-acre minimum lot size based upon a slope density formula. The property consists of three legal parcels. Parcel 1 is approximately 78 acres, and parcel 2 is approximately 38 acres. Parcel 3 is a legal, non-conforming 1 acre parcel. Each of these parcels is accessed from a dirt driveway via Aldercroft Heights Road. Most of the property is steeply sloping canyon and riparian zone.

Preliminary Use and Management Plan (Next Steps)

The Preliminary Use and Management Plan would take effect at the close of escrow for each parcel, and remain effective until the Plan is amended or a Comprehensive Use and Management Plan or Master Plan is approved for the Cathedral Oaks Area of the Sierra Azul Open Space Preserve. The Preliminary Use and Management Plan represents a status quo approach to management. The property would 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:	Install private property and preserve boundary signs where appropriate. Work with law enforcement officials to secure the property.
Structures and Improvements:	No structures or major improvements will be present on the property at the time the lease and management agreement goes into effect.
Patrol:	Routinely patrol the property.
Name:	Name the property as an addition to the Cathedral Oaks Area of the Sierra Azul Open Space Preserve.
Dedication:	Withhold dedication of the property as open space at this time.

CEQA COMPLIANCE

Project Description

The proposed project consists of the waiver of the District's right of first refusal, lease of 117.14-acre private property to the District to manage for open space preservation purposes, and the concurrent adoption of a Preliminary Use and Management Plan to manage the property as part of the District's Sierra Azul Open Space Preserve. The District would manage the property under the terms of a lease and management agreement that keeps the land in a natural condition and closed to the public.

CEQA Determination

The District concludes that 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 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 License and Management Agreement and the proposed 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.

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

TERMS AND CONDITIONS

POST has entered into a purchase and sale agreement to purchase the three Carilli parcels totaling of 117.14 acres. The District holds a right of first refusal over Carilli's Parcels 1 and 2. POST's purchase of Parcels 1 and 2 is contingent upon the District waiving its right of first refusal.

The lease and management agreement has a one-year term allowing the District to patrol and manage the property as public open space. The lease will take effect for each parcel at the time POST closes escrow on the purchase of each of the separate parcels which make up the entirety of the 117.14 acre Carilli property. POST anticipates closing on Parcel 3 and Parcel 2 on September 19, 2011, and Parcel 1 on or before January 31, 2012. As part of POST's separate purchase agreement with Mr. Carilli, each parcel is to be delivered free and clear of occupants, structures, personal property and debris before the close of escrow. The District will be solely responsible for managing the property during the lease term, and will be allowed to install gates and appropriate signage and fencing as the District determines is necessary, and to patrol the property and enforce District ordinances. The District will be responsible for preserving the existing character of the property, but will not be obligated to make any material capital improvements to the property. A lease fee of \$7,100 will be charged to the District by POST. The District's General Manager will have the authority to extend the lease for an additional one year term. Any extension of the lease term would be reported back to the Board at the next available meeting as an informational item.

PUBLIC NOTICE

Property owners adjacent to or surrounding the subject property have been mailed written notice of the proposed lease and management agreement. Public notice was provided as required by the Brown Act. No additional notice is required.

NEXT STEPS

Upon approval by the District Board of Directors, the General Manager will execute the lease and management agreement and return one original agreement to POST for its records. The District's Foothills Field Office will include the property into the patrol and management of the Cathedral Oaks Area of Sierra Azul Open Space Preserve.

Attachments:

1. Map

Prepared by:

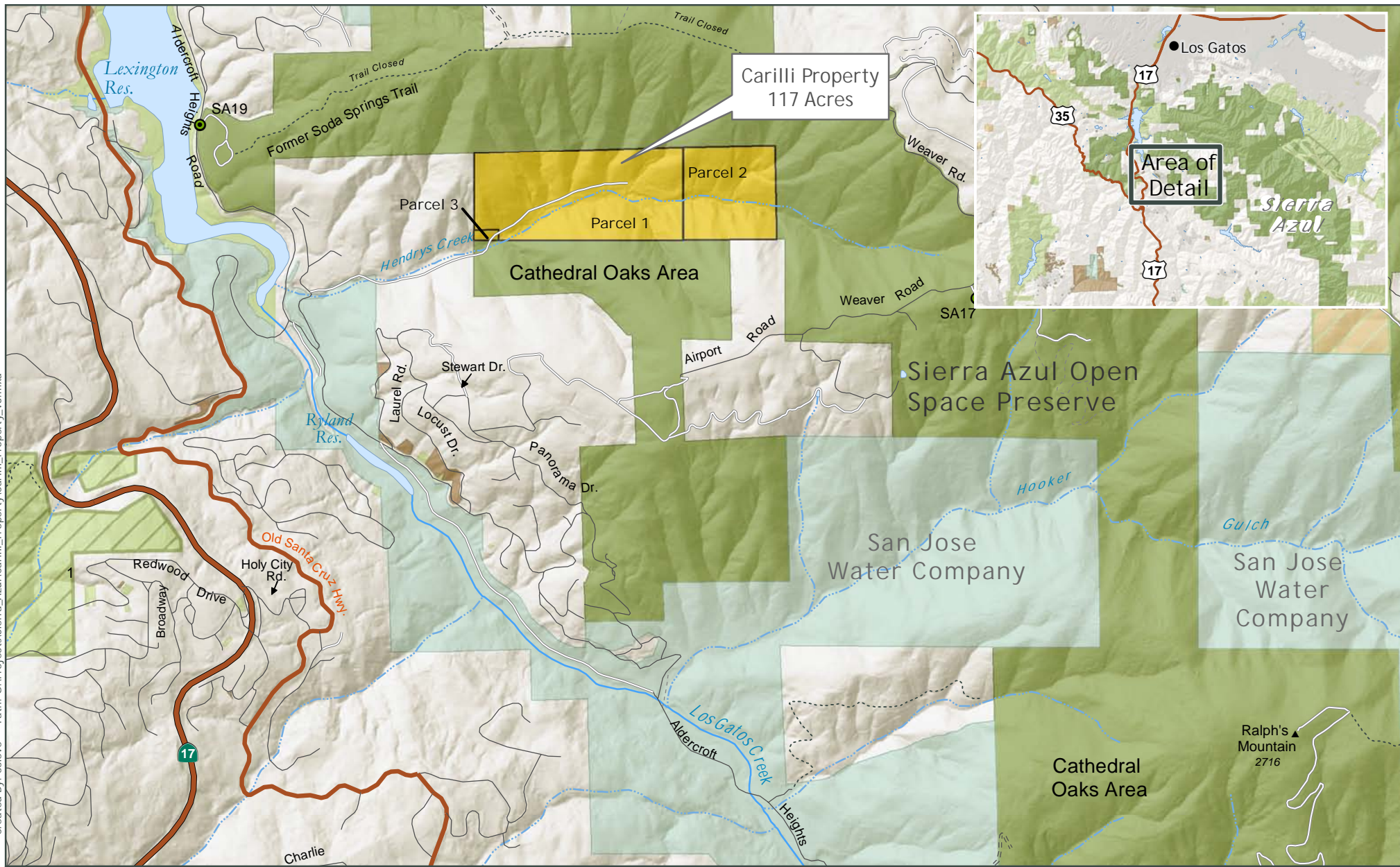
Michael C. Williams, Real Property Manager

Contact person:








Michael C. Williams, Real Property Manager

Graphics prepared by:

Alex Roa, Planning Intern



Attachment A: Proposed Addition of Carilli Property, Cathedral Oaks Area of Sierra Azul OSP

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|  Carilli Property |  Watershed Land |  MROSD Conservation or Agricultural Easement |
|  MROSD Open Space Preserves |  Other Public Agency | |
|  Other Protected Open Space or Park Lands |  Private Property | |

Midpeninsula Regional Open Space District (MROSD)

August, 2011



While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.