



Midpeninsula Regional
Open Space District

R-14-160
Meeting 14-35
December 17, 2014

AGENDA ITEM 3

AGENDA ITEM

Acceptance of a Waterline Easement and Quitclaim Deed from William and Adriana Chiocchi Living Trust and a Waterline Easement and Quitclaim Deed from Stiles Family Trust, both at Bear Creek Redwoods Open Space Preserve (Santa Clara County Assessor's Parcel Numbers 558-41-033 and 558-41-028), and Determine that the Recommended Actions are Categorically Exempt from the California Environmental Quality Act.

GENERAL MANAGER'S RECOMMENDATIONS

A handwritten signature in black ink, appearing to be "JLQ".

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 acceptance of a waterline easement and quitclaim deed from William and Adriana Chiocchi Living Trust and Stiles Family Trust.

SUMMARY

As part of the Settlement Agreement and Mutual Release between the William and Adriana Chiocchi Living Trust (Chiocchi), Stiles Family Trust (Stiles), Presentation Center and Midpeninsula Regional Open Space District (District), Chiocchi and Stiles were required to execute and deliver waterline easements to the District/Presentation Center for the Alma Water System as it crosses their property and quitclaim deeds relinquishing all rights to the Alma Water System. To this end, the General Manager recommends accepting and executing the waterline easements and accepting the quitclaim deeds from Chiocchi and Stiles, which are the only unresolved conditions in the settlement agreement. These actions would have no fiscal impact to the District's budget.

DISCUSSION

Background

In September of 1989, Hong Kong Metro Realty (HKMR) acquired lands on both sides of Highway 17 along Bear Creek Road and Old Santa Cruz Highway. The 1,071 acre HKMR property west of Highway 17 was purchased by the District in 1999 and 2000 establishing the Bear Creek Redwoods Open Space Preserve (see reports R-99-07, R-99-92 and R-00-111). Presentation Center owned and operated a retreat center adjacent to and west of the HKMR property west of Highway 17. In October of 1989, the Loma Prieta Earthquake damaged the water system that served the land owned by HKMR and the Presentation Center. In December of 1990, the Presentation Center secured a grant from the Red Cross to install a new water

system (“Alma Water System”). In order to secure the needed rights for the Alma Water System to cross HKMR’s property, the Presentation Center entered into a Water Agreement in 1993 with HKMR that included the ability for the Alma Water System to serve future development on the HKMR’s land west of Highway 17. The Alma Water System was not intended to serve the HKMR properties east of the highway. The water system that was developed consisted of a line that connected to a San Jose Water main near Lexington Reservoir and pumped water over the HKMR property east of Highway 17 via a 6-inch line up to a 500,000 gallon holding tank on HKMR property west of Highway 17 and finally up to the Presentation Center Property. Under the 1993 Water Agreement between Presentation Center and HKMR, a number of easements were to be granted to the Presentation Center for the Alma Water System as it crossed HKMR property, but for reasons unknown at this time only the easement west of Highway 17 was recorded. The HKMR property east of Highway 17 was never encumbered with formal waterline easements.

The Alma Water System operated without any major issues and exclusively served the Presentation Center’s property until 2007. HKMR sold its property to Arlie Land and Cattle Company (Arlie) in 1998 and the District subsequently purchased the land west of Highway 17 from Arlie in 1999. With this purchase, the District became a shared 50% owner in the Alma Water System with the Presentation Center. Through a series of transactions, Arlie sold its property east of Highway 17 and Chiocchi and Stiles purchased several former Arlie parcels along Old Santa Cruz Highway in 2005 and 2003.

In 2007, Chiocchi and Stiles initiated a lawsuit seeking to access the private Alma Water System owned by the District and Presentation Center that ran through their property. Prior to or during the lawsuit, Chiocchi and Stiles illegally hooked into the Alma Water System to serve their single family residential developments (Chiocchi completed their home in 2007 and Stiles has not yet completed his development). In 2009, with the District and Presentation Center’s motion for summary judgment pending, Chiocchi and Stiles agreed to disconnect from the Alma Water System and connect to the municipal San Jose Water system. In March of 2012, Chiochi and Stiles still had not disconnected from the Alma Water System and the District and Presentation Center were forced to file a new lawsuit.

Settlement Agreement

In August 2013, the District, Chiocchi, Stiles and Presentation Center executed a Settlement Agreement and Mutual Release (Settlement Agreement) of the District/Presentation Center lawsuit that was filed in 2012. As part of the Agreement Chiocchi/Stiles agreed to:

1. Pay the District and Presentation Center \$75,000;
2. Remove all current connections from the Alma Water System;
3. Execute a disclaimer for any and all interests in the Alma Water System;
4. Grant easements for the Alma Water System line as it crosses the Chiocchi and Stiles properties; and,
5. Execute quitclaim deeds to all rights they may have to the Alma Water System.

The 2012 District/Presentation Center lawsuit was dismissed on October 2, 2014 as all of the conditions in the Settlement Agreement were satisfied. The only outstanding items are the formal acceptance and execution of the waterline easements and the acceptance of the quitclaim deeds.

Waterline Easements

The Chiocchi and Stiles properties are located east of Highway 17 and therefore these properties were never formally burdened with easements for the Alma Water System line as it crossed the properties despite the 1993 Water Agreement anticipating this grant. As part of the Settlement Agreement, it was agreed that formal easements for the current alignment of the Alma Water System line would be granted by Chiocchi and Stiles to the District and Presentation Center.

Quitclaim Deeds

Under the Settlement Agreement Chiocchi and Stiles agreed that they have no deeded or formal rights to the Alma Water System. The Quitclaim Deeds executed by Chiocchi and Stiles relinquish any current or future rights to the Alma Water system to the District and Presentation Center.

BOARD COMMITTEE REVIEW

There was no Committee review for this agenda item. This item has come to the full Board on many occasions in the past in closed session.

FISCAL IMPACT

The acceptance and execution of the waterline easements and quitclaim deeds have no fiscal impact to the District’s budget.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. Adjacent property owners were also mailed a copy of the meeting agenda.

CEQA COMPLIANCE

Project Description

The project consists of accepting and executing waterline easements and quitclaims deeds for the existing District and Presentation Center owned Alma Water System.

CEQA Determination

The District concludes that this project will not have a significant effect on the environment. The project is categorically exempt from CEQA under Article 19, Sections 15301 of the CEQA Guidelines as follows:

Section 15301 exempts operation, repair, restoration, 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.

The acceptance and execution of the waterline easements and quitclaim deeds are for an existing water system that was constructed and installed in 1993. The alignment and location of the waterline in the easements and quitclaim deeds is not being altered.

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

NEXT STEPS

Pending Board approval, the easements and quitclaim deeds would be executed and delivered for recording.

Attachments

1. Resolution authorizing the acceptance of a waterline easement and quitclaim deed from William and Adriana Chiocchi Living Trust and Stiles Family Trust
2. Location Map

Responsible Department Head:

Michael Williams, Real Property Manager, Real Property Department

Contact person:

Allen L. Ishibashi, Real Property Specialist

Graphics prepared by:

Jon Montgomery, Planning Technician

RESOLUTION NO. 14-__

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT (DISTRICT) APPROVING AND AUTHORIZING THE PRESIDENT OF THE BOARD, GENERAL MANAGER, OR OTHER APPROPRIATE OFFICER TO ACCEPT AND EXECUTE A WATERLINE EASEMENT WITH WILLIAM AND ADRIANA CHIOCCHI LIVING TRUST, EXECUTE A CERTIFICATE OF ACCEPTANCE FOR THE QUITCLAIM DEED TO THE DISTRICT, AND APPROVING AND AUTHORIZING THE PRESIDENT OF THE BOARD, GENERAL MANAGER, OR OTHER APPROPRIATE OFFICER TO ACCEPT AND EXECUTE A WATERLINE EASEMENT WITH STILES FAMILY TRUST, EXECUTE A CERTIFICATE OF ACCEPTANCE FOR THE QUITCLAIM DEED TO THE DISTRICT AND AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO COMPLETE THE TRANSACTION (BEAR CREEK REDWOODS OPEN SPACE PRESERVE – WILLIAM AND ADRIANA CHIOCCHI LIVING TRUST AND STILES FAMILY TRUST)

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

Section One. The General Manager, President of the Board or other appropriate officer is authorized to execute the waterline easement to District and certificates of acceptance for quitclaim deed with William and Adriana Chiocchi Living Trust.

Section Two. The General Manager, President of the Board or other appropriate officer is authorized to execute the waterline easement to District and certificates of acceptance for quitclaim deed with Stiles Family Trust.

Section Three. The General Manager and General Counsel are authorized to execute any and all other documents necessary or appropriate to the closing of the transactions approved in this Resolution. The General Manager and General Counsel are further authorized to approve minor or technical revisions to the waterline easements and quitclaim deeds that do not involve any substantial changes to any terms of the easements and quitclaim deeds, and which are necessary or appropriate to the closing or implementation of these transactions.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2014, at a Regular Meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Secretary
Board of Directors

President
Board of Directors

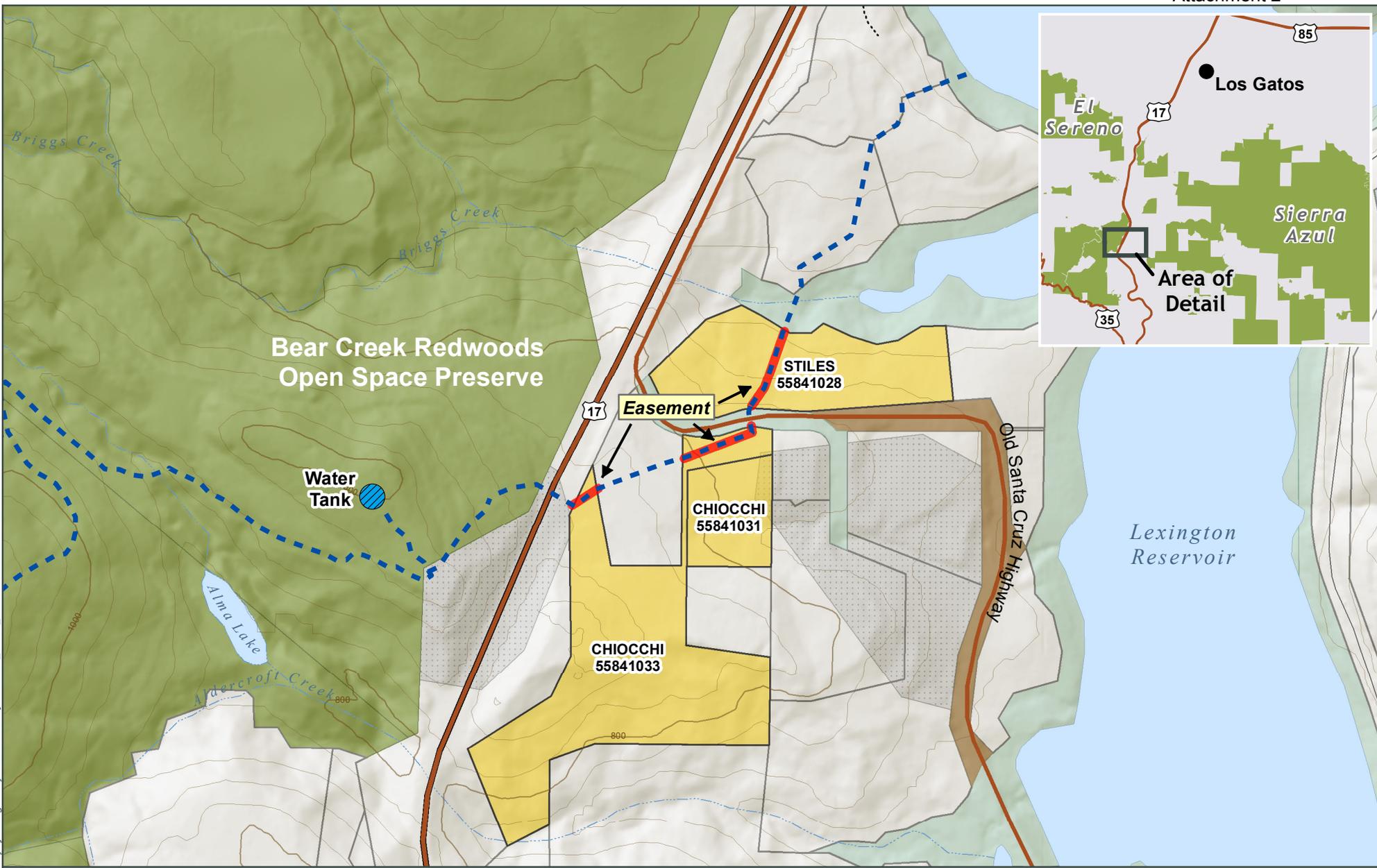
APPROVED AS TO FORM:

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

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Chiocchi/Stiles Settlement

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|  MROSD Preserves |  Highlighted Property |  Alma Waterline |
|  Other Public Agency |  Private Property |  Easement |
|  Watershed Land |  Developed Land | |

Midpeninsula Regional
Open Space District
(MROSD)



December, 2014



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.