



Midpeninsula Regional  
Open Space District

R-19-132  
Meeting 19-26  
October 9, 2019

### AGENDA ITEM 3

#### AGENDA ITEM

Approval of Settlement Terms and Authorization to Execute a Corrected Easement in Exchange for Dismissal of *Scranton v. Prokofyeva and Midpeninsula Regional Open Space District*, Santa Clara County Superior Court Case No. 19CV345161, a Quiet Title Action related to Access on a Private Access Road, in Sierra Azul Open Space Preserve (Santa Clara County Assessor's Parcel Number 532-25-051)

#### GENERAL MANAGER AND GENERAL COUNSEL'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. Approve the settlement terms outlined in the report, and adopt a Resolution authorizing the execution of a corrected and amended easement to acknowledge an existing easement on a private access road that crosses Sierra Azul Open Space Preserve.

#### SUMMARY

The purpose of this item is to fully resolve a quiet title action filed against the Midpeninsula Regional Open Space District (District) in Santa Clara County Superior Court (*Scranton v. Prokofyeva and Midpeninsula Regional Open Space District*, Case No. 19CV345161) in March 2019. The complaint generally alleged that the Scrantons had a preexisting easement across District property that did not clearly benefit the Scranton parcel in the District's chain of title. With the assistance of First American Title Insurance Company, the District has confirmed that an existing private access road shared with two neighbors also benefits the Scrantons' parcel for ingress, egress, and utilities. To resolve the action and recognize preexisting rights across District property, the General Manager and General Counsel recommend approving a corrected and amended easement that acknowledges and modernizes the existing easement to reflect that the easement benefits the Scranton parcel. These actions would have no fiscal impact.

#### DISCUSSION

The District purchased the 45-acre property underlying the private access road in March 1989 (see report R-89-12) and dedicated it as public open space in December of 1989 ("District Property"). The purchase was made with a contribution from the Town of Los Gatos, which holds an open space easement on the District Property. The affected parcel is a portion of the Kennedy-Limekiln area of the Sierra Azul Open Space Preserve. The private access road serves several properties on the ridgeline above the Town of Los Gatos, and it also traverses a section of the District Property.

In 2005, Scranton purchased a parcel adjacent to the District Property with an existing single-family residence (Scranton Property). There is an existing driveway on the northern boundary of the District Property that is shared with another private neighbor, Prokofyeva (the other defendant in the Scranton's legal action). The District and Prokofyeva each own half the width of the driveway to the center line.

In March 2019, Scranton initiated a quiet title action ("the Action") against the District and Prokofyeva, seeking acknowledgement of the access easement across the private access road to serve the Scranton Property. The District, with the assistance of First American Title Company, determined that the Scranton Property was in fact benefited by an existing easement on the private access road, but that this easement did not appear in the District's chain of title as burdening the District Property and benefiting the Scranton Property.

Under the terms of the easement, the District would have no responsibility for repair or maintenance of the driveway within the easement area. There is already a structure on the Scranton parcel, so executing the corrected and amended easement does not facilitate new development. Any future improvements within the easement, or development of the Scranton Property to be served by the easement, would be subject to local zoning restrictions, land development policies, and utility service requirements. The width of the existing paved driveway within the easement would only be increased to meet updated regulatory requirements.

### **Settlement Agreement**

Scranton agrees to dismiss the action filed against the District in exchange for the District executing a corrected and amended easement recognizing Scranton's right to use the portion of the private access road for ingress, egress, and utilities to serve a single family residence.

### **FISCAL IMPACT**

There are no costs associated with Board approval of this item. The District did not incur any costs related to the Action due to sharing of nominal survey costs among all of the parties to the Action and insurance coverage under the District's title insurance policy.

### **BOARD COMMITTEE REVIEW**

There was no Committee review for this agenda item. The Board provided direction regarding resolution of the legal action in closed session.

### **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act. District staff notified the Town of Los Gatos regarding the corrected easement due to the Town's open space easement on the property, and its involvement in the District's 1989 acquisition of the property.

### **CEQA COMPLIANCE**

#### **Project Description**

The project consists of recording a corrected easement to acknowledge access to a residential parcel along an existing driveway.

**CEQA Determination**

The 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 corrected easement acknowledges the right to use an existing driveway by a neighboring property owner. The driveway was likely constructed as early as 1955. The alignment and location of the driveway is not expected to be altered, and any alteration would be negligible.

**NEXT STEPS**

Pending Board approval, the corrected easement will be executed and delivered to Scranton to be recorded.

**Attachments**

1. Resolution authorizing the recording of a corrected and amended easement benefiting Santa Clara County Assessors Parcel Number 532-25-013
2. Location Map

Responsible Department Head:

Michael Williams, Real Property Manager, Real Property Department

Contact person:

Allen Ishibashi, Senior Real Property Agent

Hilary Stevenson, General Counsel

Graphics prepared by:

Nathan Grieg, Data Analyst II

**RESOLUTION NO. 19-\_\_**

**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 EXECUTE A CORRECTED AND AMENDED EASEMENT IN FAVOR OF SCRANTON, AND AUTHORIZING THE GENERAL MANAGER AND GENERAL COUNSEL TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO COMPLETE THE TRANSACTION AND SETTLE THE LITIGATION (SIERRA AZUL OPEN SPACE PRESERVE)**

---

WHEREAS, the Midpeninsula Regional Open Space District (“District” or “MROSD”) owns a property which is the subject of a legal action known as *Scranton v. Prokofyeva and MROSD*, Santa Clara County Superior Court Case No. 19CV345161 (the “Action”), which is a quiet title action related to access on a private access road, in Sierra Azul Open Space Preserve (Santa Clara County Assessor’s Parcel Number 532-25-051); and

WHEREAS, with the assistance of First American Title Insurance Company, the District has confirmed that an existing private access road shared with two neighbors benefits the Scranton parcel for purposes of ingress, egress, and utilities; and

WHEREAS, in order to resolve the Action and recognize preexisting rights across District property, the General Manager and General Counsel recommend approving a corrected and amended easement that acknowledges and modernizes the existing easement to reflect that the easement benefits the Scranton parcel.

NOW, THEREFORE, the Board of Directors of the Midpeninsula Regional Open Space District does resolve as follows:

Section One. The General Manager, President of the Board of Directors or other appropriate officer is authorized to execute the corrected easement across District Property (Assessors Parcel Number 532-25-051) benefiting the Scranton Property (Assessors Parcel Number 532-25-013).

Section Two. The General Manager and General Counsel are authorized to execute any and all other documents necessary or appropriate to the completion of the transaction and settlement of the litigation. The General Manager and General Counsel are further authorized to approve minor or technical revisions to the documents that do not involve any substantial changes to any terms of the documents, and which are necessary or appropriate to the closing or implementation of this transaction and settlement of the litigation.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on \_\_\_\_\_, 2019, at a Regular Meeting thereof, by the following vote:

AYES:

NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
Secretary  
Board of Directors

\_\_\_\_\_  
President  
Board of Directors

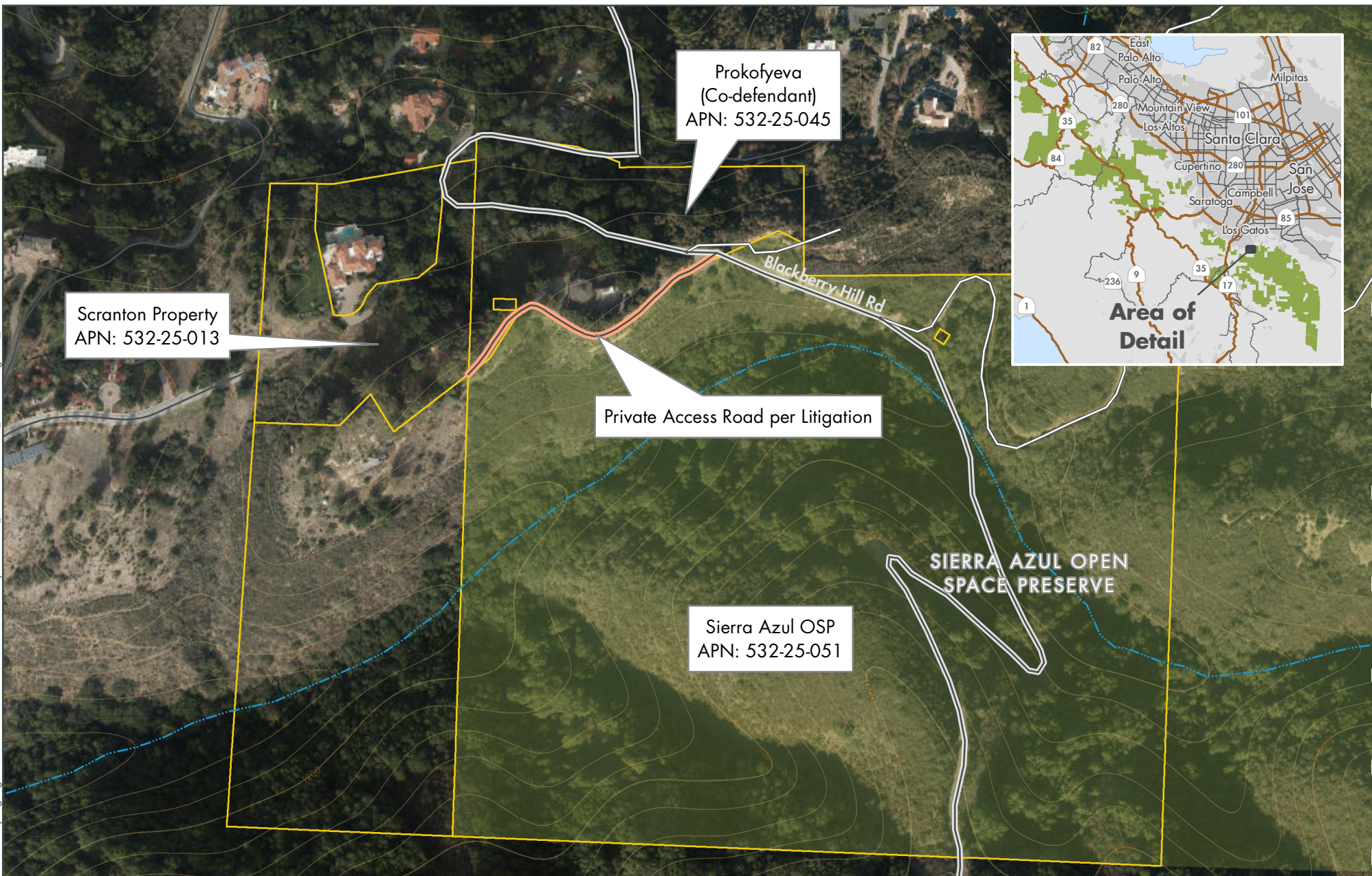
APPROVED AS TO FORM:

\_\_\_\_\_  
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

Path: G:\Projects\Sierra\_Azul\Scranton\_SA\_ScrantonLitigation\_20190927.mxd  
Created By: ngreig



### Scranton Litigation

### ATTACHMENT 2

Midpeninsula Regional  
Open Space District  
(Midpen)  
9/27/2019

- Sierra Azul Open Space Preserve
- Private Property
- Private Access Road per Litigation
- Select Parcels



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