



Midpeninsula Regional
Open Space District

R-14-116
Meeting 14-28
October 8, 2014

AGENDA ITEM 6

AGENDA ITEM

Proposed Purchase of and related Preliminary Use and Management Plan and Categorical Exemption for the Sargent Lysons Family Trust Property as an addition to Monte Bello Open Space Preserve, located at 17251 Stevens Canyon Road in unincorporated Santa Clara County (Assessor's Parcel Number 351-16-020)

GENERAL MANAGER'S RECOMMENDATIONS

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

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 Sargent Lysons Family Trust property.
3. Adopt the Preliminary Use and Management Plan as contained in the staff report.
4. Withhold dedication of the Property as public open space.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to purchase the 60-acre Sargent Lysons Family Trust (Lysons) property at a price of \$1,480,000 as an addition to Monte Bello Open Space Preserve. The following report presents a description of the Lysons property, a Preliminary Use and Management Plan, the District's environmental review, the purchase terms and conditions, and financial considerations, including a discussion of the potential funding contribution from Santa Clara County.

DISCUSSION

The 60-acre Lysons property is adjacent to the 3,436-acre Monte Bello Open Space Preserve to the west and east, and the 1,608-acre Saratoga Gap Open Space Preserve to the south. This property represents the last in-holding needed to connect Lower Stevens Creek County Park to Upper Stevens Creek County Park through Monte Bello Open Space Preserve. In addition, the proposed purchase will provide a connection from Picchetti Ranch Open Space Preserve to Monte Bello Open Space Preserve to Skyline Boulevard. The reasons for purchase include: (1) facilitate completion of the Upper Stevens Creek Trail (Measure AA Project #17); (2) create a partnership purchase opportunity with Santa Clara County Parks, (3) eliminate an in-holding to Monte Bello Open Space Preserve, and (4) protect the Stevens Creek watershed.

Property Description and Regional Context (see attached map)

The 60-acre Lysons property is located on the north side of Stevens Canyon Road. The rectangular-shaped parcel is bounded by Monte Bello Open Space Preserve to the west and east, private properties to the north and Saratoga Gap Open Space Preserve to the south. Upper Stevens Creek County Park (Santa Clara County) is located approximately 1/2 mile to the southwest and Lower Stevens Creek County Park is located approximately 1/4 mile to the southeast. The property is therefore a natural and desirable addition for the District and completes the continuous greenbelt in Stevens Canyon.

Elevations range from 1000 feet along Stevens Creek to over 1,800 feet at the highest point along the south facing hillside. The property is heavily wooded with oaks, madrones, and bay laurel at low elevations and contains more chaparral type vegetation at high elevations. Common fauna include deer, mountain lions, bush rabbits, coyotes, bobcats, a variety of small birds and small animals. The San Andreas rift zone is located in Stevens Canyon with clay soils on the south side and sandstone on the north side. A seasonal tributary containing Douglas fir crosses the property and flows into Stevens Creek. Purchase of the Lysons property will protect important watershed land and local wildlife habitat.

The property is within the planning corridor for the proposed extension of the Upper Stevens Creek Trail, a joint effort by the County of Santa Clara and the District to connect Lower Stevens Creek County Park to Upper Stevens Creek County Park and Picchetti Ranch Open Space Preserve with Monte Bello Open Space Preserve. This proposed trail linkage is identified in the Santa Clara Countywide Trails Master Plan and the District's Vision Plan.

Purchase will also preserve the natural and scenic character of the Stevens Canyon corridor and the District's surrounding Preserves. Over the last twelve years, the District has purchased approximately 810 acres of open space lands linking Monte Bello and Saratoga Gap Open Space Preserves to both Upper and Lower Stevens Creek Park. Santa Clara County Parks has partnered with the District to jointly purchase and preserve four properties along the north side of Stevens Canyon totaling approximately 290 acres since 2005.

Improvements

The property is access via a gated road that comes off of Stevens Canyon Road. The District holds an access easement over a portion of this road as it crosses the Lysons property for access to the former 100-acre Keyani Property, which was a joint purchase with Santa Clara County Parks (R-04-125). PG&E holds an easement over this road to access the high voltage towers that cross the former Keyani property. During the Stevens Canyon Fire in 2007, this road was used by CalFire to cut fire breaks to protect residents along Stevens Canyon Road and Monte Bello Road. The property is improved with two houses with a combined building area of approximately 3,800 square feet. The lower house is a two bedroom, one bath wood-framed structure containing approximately 875 square feet that is in fair condition. The upper house is a two-story, three bedroom, two bath wood-framed structure containing 2,637 square feet which includes an unpermitted addition that is in fair to poor condition. These structures are served by a spring water system that is located within a tributary on the former Powell property (R-10-95 and R-11-34), and each house is on a separate septic system. Electric service is provided by overhead utility lines and gas service is provided by propane.

USE AND MANAGEMENT

Planning Considerations

The subject property is located within unincorporated Santa Clara County and is zoned HS (Hillside), requiring a 20 to 160 acre minimum lot size based upon a slope density formula. The property consists of one legal parcel and has a density as one residential site. Access to the property is from Stevens Canyon Road.

The District's 1998 Regional Open Space Study shows a potential regional trail connection in the vicinity of the property and, as noted earlier in this report, the Santa Clara Countywide Trails Master Plan and District Vision Plan identify this trail corridor for the extension of the Stevens Creek Trail connecting the Lower Stevens Creek County Park to Upper Stevens Creek County Park and Picchetti Ranch Open Space Preserve to Monte Bello Open Space Preserve.

The Lysons property is identified as part of a 6,000 acre intact habitat area and it is located in a Critical Linkage that was identified in the Critical Linkages Project completed by Science and Collaboration for Connected Wildlands in 2012.

The property is improved with two houses, which are currently occupied as rental units.

Preliminary Use and Management Plan

The principal purpose of the Preliminary Use and Management Plan is to establish a status quo land management approach to be effective in the interim between the purchase and the completion of a subsequent long-term plan. The Preliminary Use and Management Plan will take effect at the close of escrow and remain effective until the plan is amended or a Comprehensive Use and Management Plan or Master Plan is approved for Monte Bello Open Space Preserve. The Preliminary Use and Management Plan includes site security, new signage, resource management activities, demolition and removal of the two houses and miscellaneous debris piles, and restoration of the property to a natural condition, as described more fully below. After this work is done, the property will be maintained in a natural condition, with no development or 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.

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|------------------------------|---|
| Public Access: | Designate the property as closed to the public at this time. |
| Signs and Site Security: | Install preserve boundary and closed area signs. Install gates to prevent unauthorized vehicular entry. |
| Structures and Improvements: | Board up and secure all structures until demolition is undertaken. Test for any asbestos-containing material or lead-based paint prior to demolition and removal of all improvements and associated infrastructure. Following demolition, re-vegetate affected areas. |
| Resource Management: | Conduct invasive plant and animal management activities consistent with the District's standard policies and procedures. |
| Patrol: | Routinely patrol the property utilizing existing roads. |

- Roads and Trails: Maintain existing roadways in a serviceable condition to facilitate demolition and removal of all structures and improvements. Following demolition, determine which roadways to maintain and which to properly abandon (PG&E access easement to remain). Implement erosion and sediment control measures to prevent erosions and water quality degradation.
- Site Safety Inspection: Clean up improved area after purchase; including various debris piles, removal and proper disposal of any hazardous materials or hazardous wastes found during clean up.
- Name: Name the property as an addition to Monte Bello Open Space Preserve.
- Dedication: Indicate your intention to withhold dedication of the subject property as public open space at this time.

FISCAL IMPACT

2014–2015 Budget for New Land Purchases:

New Land	\$8,500,000.00
Land purchased this year	(\$0.00)
Sargent Lysons Family Trust Property	(\$1,480,000.00)
New Land Purchase Budget Remaining	\$7,020,000.00

District Controller Mike Foster 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

Due to the occupancy of the property by two residential tenants, this item was not presented to the Real Property Committee.

PUBLIC NOTICE

Santa Clara County Parks, interested parties, and property owners of land located adjacent to or surrounding the subject property have been mailed a copy of this Agenda.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 60-acre Lysons property as an addition to the District’s open space preserve system, and the concurrent adoption of a Preliminary Use and Management Plan for the property. The project includes the eventual demolition of two residential structures, which will require permits from Santa Clara County. Erosion control and sediment control measures will be implemented at the building sites and along existing driveways as needed to prevent water quality degradation. Minor resource management

activities may be conducted as needed to control invasive plants. The land will 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 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, including the demolition of individual small structures. The project proposes demolishing the two residential structures, performing erosion control work as necessary along existing roads, and performing minor restoration activities to return the structure demolition sites to a natural condition.

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 Preliminary Use and Management Plan 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 order to maintain the open space character of the property.

The actions recommended in the Preliminary Use and Management Plan are also exempt under section 15061(b)(3), as there is no possibility the recommended actions will have a significant effect on the environment.

TERMS AND CONDITIONS

The purchase price for the 60-acre Lysons property is \$1,480,000 or \$24,666 per acre. The property would be purchased on an all cash basis free and clear of tenants at the close of escrow. The purchase price is based upon a fair market appraisal commissioned by the District and it is considered fair and reasonable. A condition of the sale is that the property will be delivered free and clear of all residential tenants prior to the close of escrow.

The Santa Clara County Parks and Recreation Department has agreed to recommend a contribution of one half (50%) of the purchase price, or \$740,000. The County has previously approved similar funding agreements for the District's purchase of the former Lobner Trust, Keyani, Hall, and Powell properties along the north side of Stevens Canyon and within the planning corridor for the Stevens Creek Trail extension. This contribution is subject to County Board of Supervisors approval. In exchange for this contribution, the District will grant the County a conservation easement over the 60-acre property requiring that the property be maintained in a natural condition for the conservation of natural habitat and wildlife, and for passive public recreational use. Approval of a funding agreement with the County and the conservation easement will come to the Board as a future agenda item. Since a funding agreement has not been approved by the County, the Board should make its purchase determination based upon payment of the full purchase price.

“As-Is” Purchase and Site Clean Up

The property is being purchased on a semi “As-Is” basis whereby several debris piles will remain after the close of escrow but hazardous material warranties will be present after the close of escrow. The District has conducted due diligence investigations, including a review of Santa Clara County Planning, Building and Environmental Services records and files pertaining to the subject property and is satisfied that no underground storage tanks or hazardous conditions exist on the property. The District has also commissioned a Phase I Environmental Site Assessment, which will be completed before the close of escrow.

Preliminary demolition, site cleanup, and restoration costs are estimated at \$200,000. Also included in the deal is a provision that would allow the Seller to salvage items (Jacuzzi tub, steam shower, wood burning stoves, and appliances) from each residential structure before the close of escrow if demolition is concurrently approved as outlined in the Preliminary Use and Management Plan.

NEXT STEPS

Upon approval by the Board of Directors, staff will proceed with the close of escrow for the purchase of the property, and will take the next steps identified in the Preliminary Use and Management Plan contained in this report. The proposed funding agreement and conservation easement with Santa Clara County Parks will come to the Board as a future agenda item. Approval of a demolition and site cleanup contract will return to the Board as a future agenda item. The District’s Skyline Field Office will manage the property as an addition to Monte Bello Open Space Preserve.

Attachments:

1. Resolution
2. Location Map

Responsible Department Head:
Michael Williams, Real Property Manager

Prepared by:
Allen Ishibashi, Real Property Specialist

Graphics prepared by:
Jon Montgomery, GIS Intern

RESOLUTION 14-XX**RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF PURCHASE 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 (MONTE BELLO OPEN SPACE PRESERVE - LANDS OF SARGENT LYSONS FAMILY TRUST)**

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 does hereby accept the offer contained in that certain Purchase and Sale Agreement between Christopher Neil Lysons and Laurie Kay Sargent, Trustees of the Sargent Lysons Family 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 Lysons Property”).

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

SECTION THREE. The General Manager or the General Manager’s designee shall cause to be given appropriate notice of acceptance to the seller and to extend escrow if necessary.

SECTION FOUR. The General Manager or the General Manager’s designee is authorized to expend up to \$15,000.00 to cover the cost of title insurance, escrow fees, and other miscellaneous costs related to this transaction and up to \$200,000 for the remediation, demolition and restoration of the property.

SECTION FIVE. 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.

SECTION SIX. The purpose of this Section is to enable the District to reimburse its general fund for the cost of certain land acquisitions. The District wishes to finance certain of these real property acquisitions and expects to use tax-exempt debt, such as bonds, but a tax-exempt financing is not cost-justified for the District unless the principal amount of the financing is large enough to justify the related financing costs. Consequently, it is the District’s practice to buy property with its general funds and, when a tax-exempt financing is cost-justified based on the aggregate value of acquisitions, to issue tax-exempt obligations to reimburse itself for previous expenditures of general funds. These general funds are needed for operating and other working

capital needs of the District and are not intended to be used to finance property acquisitions on a long-term basis.

* * * * *

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

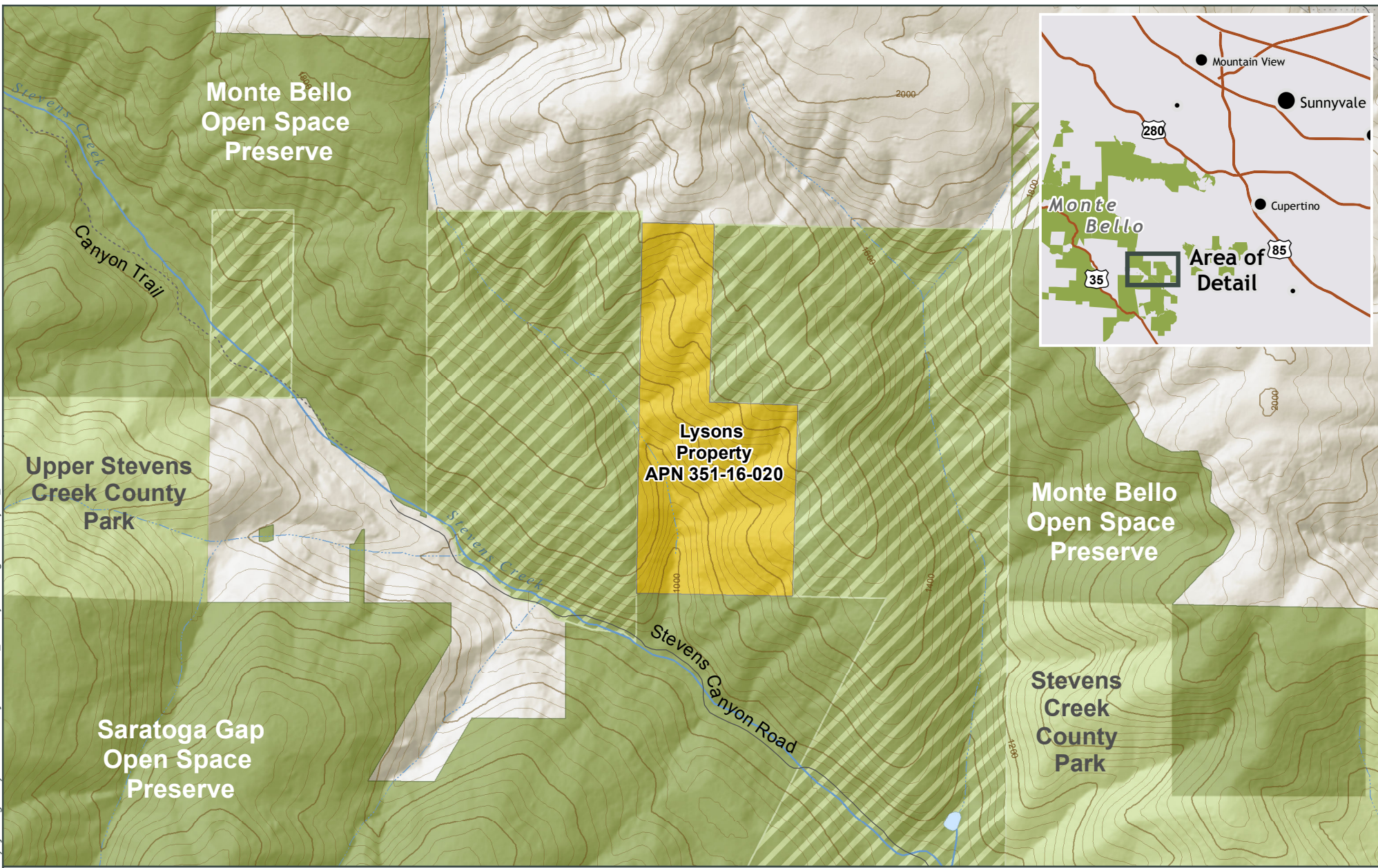
APPROVED AS TO FORM:

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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Lysons Property (APN 351-16-020) - 17251 Stevens Canyon Road, Cupertino

-  Highlighted Property
-  MROSD Preserves
-  Other Protected Open Space or Park Lands
-  Private Property
-  Non MROSD Conservation or Agricultural Easement
-  MROSD Conservation or Agricultural Easement

Midpeninsula Regional Open Space District (MROSD)



August, 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.