



Midpeninsula Regional
Open Space District

R-14-28
Meeting 14-06
February 12, 2014

AGENDA ITEM 7

AGENDA ITEM

Purchase Approval of the Rogers' Property as an Addition to Monte Bello Open Space Preserve, located at 1405 Skyline Boulevard in Palo Alto and unincorporated San Mateo County (Santa Clara County Assessor's Parcel Number 351-12-006 and San Mateo Assessor's Parcel Numbers 080-312-010 and 080-411-010); Adoption of a Preliminary Use and Management Plan for the Property; and Approval of a Categorical Exemption in accordance with the California Environmental Quality Act.

GENERAL MANAGER'S RECOMMENDATIONS

A handwritten signature in black ink, appearing to be "S.M.", is written over the end of the "GENERAL MANAGER'S RECOMMENDATIONS" header.

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 Rogers' property.
3. Adopt a Preliminary Use and Management Plan for the property as contained in this report.
4. Adopt a Resolution authorizing the General Manager to file, upon close of escrow, a notice of Williamson Act nonrenewal with the City of Palo Alto for Santa Clara County Assessor's Parcel Number 351-12-006.
5. Indicate your intention to dedicate the Rogers property as public open space at this time.

SUMMARY

The Midpeninsula Regional Open Space District (District) is proposing to purchase the 147.96-acre Rogers' property at a price of \$3,600,000. As part of this transaction, the District is proposing to file for nonrenewal of the Williamson Act contract with the City of Palo Alto. The following report presents a description of the Rogers' property, a Preliminary Use and Management Plan, the District's environmental review, the purchase terms and conditions, and financial considerations.

DISCUSSION

The 147.96-acre Rogers' property is adjacent to the 3,288-acre Monte Bello Open Space Preserve to the north and east, and 1,095-acre Upper Stevens Creek County Park to the south. This property is highly visible from the ridge along Monte Bello Road and the property is one of

the largest remaining private in-holdings along the scenic corridor south of Page Mill Road. The Skyline Ridge Open Space Preserve is located directly across Skyline Boulevard (State Highway 35). The Canyon Trail along Stevens Creek is located approximately 1/4 mile to the east and the Grizzly Flat Trail in Upper Stevens Creek County Park is located approximately 1/4 mile to the southeast. The purchase of the property will protect the Stevens Creek watershed, red-legged frog habitat, and the scenic view shed, and will provide future trail connection opportunities between Monte Bello Open Space Preserve and Upper Stevens Creek County Park.

Property Description and Regional Context (see attached map)

The majority of the 147.96-acre Rogers' property is located in the City of Palo Alto in Santa Clara County and is bounded by the Monte Bello Open Space Preserve to the north and east, the Skyline Ridge Open Space Preserve to the west and Upper Stevens Creek County Park, and several small residential private properties along Skyline Boulevard to the south. The District's Long Ridge Open Space Preserve is located approximately 1/8 of a mile to the south. The property is a natural and desirable addition to the preserve because it protects the Stevens Creek watershed resources, wildlife habitat, scenic ridge top views and provides potential future trail connections. The property is irregularly shaped with two small parcels located in San Mateo County along Skyline Boulevard.

The property contains diverse habitats and vegetation, which is characterized by steep forested slopes, oak savannah, open grasslands, and densely wooded mixed evergreen forest, including redwood, douglas fir and madrone. The main ridgeline rises to a height of 2,200 feet near Skyline Boulevard. The property is traversed by three creeks that flow into Stevens Creek and contains two seasonal ponds with good spawning habitat for red-legged frog.

The common fauna includes deer, bush rabbits, coyotes, mountain lion, bobcat, a variety of small birds and small animals. Of the 26 special-status wildlife species known in the area, five either have the potential to occur or may be positively impacted by the District's preservation of the property. These species include: California red-legged frog, Western Pond Turtle, Cooper's Hawk, Sharp-Shinned Hawk and San Francisco Dusky-footed Woodrat.

Improvements

The property is improved with four structures: a 1,200 square foot, two bedroom and one bath house, a carport with storage container, a 2,500 square foot barn and 400 square foot pig barn. The house is currently vacant and has not been occupied on a full-time basis since approximately 2009. The house and carport are in fair condition and the barns are in poor condition. The house was historically served by a spring water system that has since been abandoned. There is no gas service to the house and electrical service is provided by overhead utility lines. Access to the structures is provided via a dirt and gravel road that is in good condition off of Skyline Boulevard. The house will be evaluated for its suitability as an employee residence or general District rental property. Based on preliminary estimates, the cost to bring the house up to habitability is around \$75,000, including \$25,000 for drilling a well and plumbing to the existing 5,000 gallon water tank, \$25,000 to re-roof the house, and \$25,000 to test for asbestos and lead based paint, improve drainage at the house and other small miscellaneous repairs.

USE AND MANAGEMENT

Planning Considerations

The subject property is comprised of three parcels located within the City of Palo Alto and unincorporated San Mateo County. The 147.71-acre parcel located in Palo Alto is zoned OS (Open Space), requiring a 10-acre minimum lot size. The existing single family house meets applicable zoning regulations and, based on preliminary discussions with the Planning Department, the parcel would be difficult to subdivide. The 0.23-acre and 0.02-acre parcels are located in unincorporated San Mateo County, are zoned RM (Resource Management) and cannot be developed based on their size and slope. Access to the entire property is from Skyline Boulevard.

The property is improved with a two-bedroom one-bath single family residence, carport, 2,500 square foot barn and 400 square foot pig barn.

Williamson Act

The Rogers' property is subject to the Land Conservation Agreement (Agreement) between the City of Palo Alto and Irene Fogarty and Sharon Fogarty under the California Land Conservation Act of 1965 (also known as the Williamson Act) recorded in 1973. The Agreement provides for the compatible uses of open space and recreation. Historically, agricultural uses on the property included grazing of a small number of dairy cows, pigs and sheep. The property has not been used for livestock grazing for over fifteen years.

The Williamson Act Land Conservation Agreement is a voluntary agreement between a landowner and the City to encourage ongoing commercial agricultural use in exchange for property tax reduction. As a government agency, the District is not subject to property taxation. Consequently, the contract would impose an undue administrative burden upon the District without affording any benefits. Staff notified the California Department of Conservation (CDC) of the proposed purchase, as required. In the past, CDC staff has recommended the District consider filing for contract nonrenewal when acquiring land subject to a Williamson Act Land Conservation Agreement. If the purchase is approved, the General Manager recommends filing for contract nonrenewal. Nonrenewal is the standard administrative procedure for terminating a Williamson Act Land Conservation Agreement and the recommended Preliminary Use and Management Plan Amendment for the Rogers property calls for the recommended nonrenewal.

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 plan is amended or a Comprehensive Use and Management Plan or Master Plan is approved for Monte Bello Open Space Preserve. The PUMP includes site security, new signage, resource management actions, a historic assessment and bat survey of the two barns, removal of miscellaneous debris, and restoration of property to a natural condition, as described more fully below. Following this work, the property would 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.

Public Access:	Designate the property as closed to public use at this time.
Signs and Site Security:	Install Preserve boundary and closed area signs where appropriate. Install gates/fencing as necessary to prevent unauthorized vehicular entry.
Structures and Improvements:	Repair the single family residence for occupancy as a District employee or private residence and improve the existing water system with a well. Test for any asbestos-containing material or lead-based paint and remediate as necessary. Conduct historical and bat surveys for the two barns.
Resource Management:	Conduct invasive plant and animal management activities consistent with the District's standard policies and procedures.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices. Further assess plant communities to determine wildfire management needs and consult with the California Department of Forestry and Fire Protection in developing site-specific fuel modification and management program as part of the subsequent planning process.
Roads and Trails:	Maintain existing driveways/roadways to the structures in a serviceable condition. Assess the viability and connectivity of the unmaintained ranch roads to adjacent trail networks on the adjoining County Park and District lands. Implement minor erosion and sediment control measures as needed to prevent erosions and water quality degradation.
Site Safety Inspection:	Remove and properly dispose of any hazardous materials or hazardous wastes found on the property.
Williamson Act:	Terminate the Williamson Act contract through the standard nonrenewal process. Comply with the existing Williamson Act contract during the nonrenewal period.
Name:	Name the property as an addition to Monte Bello Open Space Preserve.
Dedication:	Indicate your intention to dedicate the subject property as public open space at this time.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 147.96-acre Rogers' property as an addition to the District's open space preserve system, concurrent adoption of a Preliminary Use and Management Plan, nonrenewal of a Williamson Act contract, and minor maintenance and repair of the existing residence and infrastructure for rental occupancy. Minor erosion control and sediment control measures may be conducted at the developed sites and along existing driveways and roads to prevent erosion and water quality degradation. Minor resource management activities may be conducted to control invasive plants. The land would 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, 15325 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 performing minor erosion control work along existing roads, and performing minor restoration activities to return the 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.

Section 15325 exempts transfers of ownership of interests in land in order to preserve open space. This acquisition will transfer fee ownership of the property to the District and ensure that the open space will be preserved. The Preliminary Use and Management Plan ensures that the property is preserved as open space by incorporating it into the District's Monte Bello Open Space Preserve.

This purchase qualifies under these four sections. 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 147.96-acre Rogers' property is \$3,600,000 or \$24,330 per acre. The property would be purchased on an all cash and "As-Is" basis at the close of escrow. The purchase price is based upon a fair market appraisal commissioned by the District and is considered fair and reasonable. As part of this transaction, the District would hold \$5,000 back in escrow if all personal property is not removed from the structures prior to the closing date.

BUDGET CONSIDERATIONS

FY2013–2014 Budget for New Land Purchases:

New Land (Mid-Year Adjusted Amount)	\$8,500,000.00
Land purchased this year	(\$0.00)
Rogers' Property	(\$3,600,000.00)
New Land Purchase Budget Remaining	\$ 4,900,000.00

District Controller was consulted on this proposed purchase and has indicated that, considering cash flow and account balances, funds are available for this property purchase.

Repair and maintenance costs to make the single family residence habitable are estimated at \$75,000 and are included in the proposed Real Property budget for FY2014-15.

BOARD COMMITTEE REVIEW

The District's Real Property Committee held a meeting on the property with neighbors and interested members of the public to familiarize themselves with the property and receive public input on the proposed purchase. This meeting was held on January 21, 2014, after notice was distributed to property owners of land located adjacent to or surrounding the property and the Monte Bello Open Space Preserve interested parties list. Six members of the public attended the meeting, including adjacent Skyline Boulevard neighbors and Mrs. Rogers. At the meeting, staff described the property, how it would be managed as a natural extension of the adjacent Preserve, the proposed preliminary use and management plan, and the purchase terms. The Real Property Committee unanimously approved recommending this purchase to the full Board of Directors.

PUBLIC NOTICE

The property owners of land located adjacent to or surrounding the subject property and Santa Clara County Parks have been notified of this Agenda Item. The agenda and this report have also been made available on the District's website. Accordingly, 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; take the next steps identified in the Preliminary Use and Management Plan as contained in this report, and file for nonrenewal of the Williamson Act contract with the City of Palo Alto. Staff would administer the repairs and improvements to the single family residence for renting as an employee or private residence. The District's Skyline Field Office would manage the property as an addition to Monte Bello Open Space Preserve.

Attachments:

1. Resolution – Authorizing Purchase
2. Resolution – Notice of Nonrenewal of Williamson Act Land Conservation Contract
3. Attachment A: Location Map

Responsible Department Manager:
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 ROGERS)**

The Board of Directors of Midpeninsula Regional Open Space District does 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 Sharon Rogers 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 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 Rogers’ 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 \$10,000.00 to cover the cost of title insurance, escrow fees, and other miscellaneous costs related to this transaction.

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.

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RESOLUTION NO. 14-XX

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT
PURSUANT TO GOVERNMENT CODE SECTION 51245
APPROVING THE FILING OF A NOTICE OF NONRENEWAL
OF THE WILLIAMSON ACT LAND CONSERVATION AGREEMENT
BETWEEN CITY OF PALO ALTO AND IRENE V. FOGARTY AND
SHARON L. FOGARTY**

WHEREAS, the Midpeninsula Regional Open Space District (“District”), upon close of escrow, will own a parcel of land in the City of Palo Alto, County of Santa Clara, known as Santa Clara County Assessor’s Parcel Number 351-12-006, which is subject to a Land Conservation Agreement between the City of Palo Alto and Irene V. Fogarty and Sharon L. Fogarty under the California Land Conservation Act of 1965 (also known as the Williamson Act); and

WHEREAS, the mission of the District includes preservation of open space lands in perpetuity so that acquisition of such contracted lands accomplishes the purposes of the Williamson Act; and

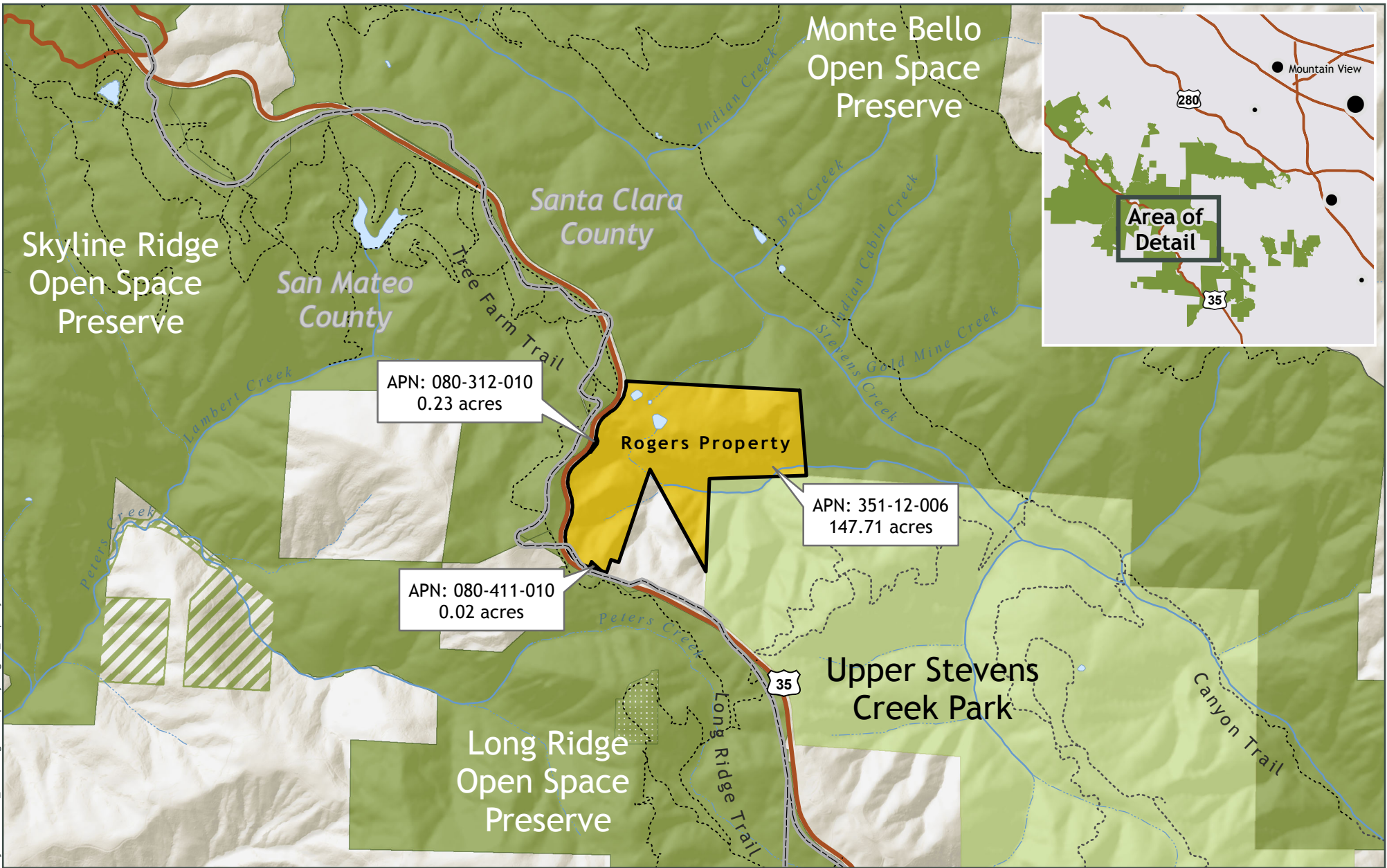
WHEREAS, the procedures established by the City of Palo Alto for administering such contracts serve no useful purpose when land is owned by a park or open space agency preserving such lands’ open space resources, yet such procedures can impose a procedural and financial burden on the District’s ability to efficiently carry out its operations; and

WHEREAS, the benefits of reduced property tax in exchange for such land preservation is no longer relevant once the District has acquired such lands, as the District is exempt from property tax in most situations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby:

1. Authorizes the General Manager of the District, pursuant to Government Code Section 51245, to file a notice of nonrenewal with the City of Palo Alto for Assessor’s Parcel Number 351-12-006, (currently subject to the same Land Conservation Contract) and, upon close of escrow, owned by the District.
2. Authorizes the General Manager as agent of the District to execute and submit all documents and take such actions as may be necessary or convenient to accomplish the purpose of this Resolution, or to comply with the requirements of the City of Palo Alto or the State Williamson Act, in order to accomplish the nonrenewal of the contract described above.

* * * * *



Attachment A: Rogers Property

- Highlighted Property
- Private Property
- MROSD Preserves
- MROSD Conservation or Agricultural Easement
- Other Protected Open Space or Park Lands
- Highway or Major Road
- Trail
- County Line

Midpeninsula Regional
Open Space District
(MROSD)



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