



Midpeninsula Regional
Open Space District

R-21-15
Meeting 21-03
January 27, 2021

AGENDA ITEM 4

AGENDA ITEM

Proposed Purchase of the Billingsley Ranch Property, located at 34000 Loma Prieta Road, Los Gatos, in unincorporated Santa Clara County (Assessor's Parcel Number 562-20-001), as an addition to Sierra Azul Open Space Preserve

GENERAL MANAGER'S RECOMMENDATIONS *dem*

1. Determine that the recommended actions are categorically exempt under the California Environmental Quality Act (CEQA), as set out in the staff report.
2. Adopt a Resolution authorizing the purchase of the Billingsley Ranch Property for \$1,650,000 with a corresponding authorization for a Fiscal Year 2020-21 budget adjustment of the same amount.
3. Authorize the General Manager to initiate plans for demolition of the structures and to bring a demolition contract award to the Board as a future item.
4. Adopt a Preliminary Use and Management Plan for the Property, as set out in the staff report.
5. Withhold dedication of the Billingsley Ranch Property as public open space at this time.

SUMMARY

The General Manager recommends purchasing the 130.23-acre Billingsley Ranch Property (Property) at a purchase price of \$1,650,000 (\$12,670 per acre) as an addition to Sierra Azul Open Space Preserve (Preserve). The following report provides a description of the Property, a Preliminary Use and Management Plan, findings of the environmental review, the purchase terms and conditions, and financial considerations. A budget adjustment/increase of \$1,650,000 to the Fiscal Year 2020-21 (FY21) budget would be required to proceed with the acquisition.

DISCUSSION

The Midpeninsula Regional Open Space District (District) proposes to purchase the 130.23-acre Property consisting of one legal parcel that is zoned Hillside (HS). The Property is bounded by the 19,185.6-acre Sierra Azul Open Space Preserve on three sides. The Property is bisected by Loma Prieta Road near Loma Prieta Mountain. Dirt roads and trail networks provide access to the Property both west and east of Loma Prieta Road. Purchase of the Property would fill a large inholding, allow for the permanent protection of forested lands and wildlife habitat within the Upper Los Gatos Creek and Alamos Creek watersheds, and further the connection of protected

open space and wildlife corridors. This purchase advances Measure AA Portfolio #25, *Loma Prieta Public Access, Regional Trails and Habitat Projects*, as it secures additional property rights over Loma Prieta Road, part of the future Mt. Umunhum-to-the-Sea regional trail. The conceptual trail route begins at Mount Umunhum and connects District lands to Soquel Demonstration Forest and the Forest of Nisene Marks State Park. The Property is one of three remaining property rights required to perfect access along the proposed trail route.

Property Description and Regional Context (see Attachment 2 – Location Map)

The rectangular-shaped Property straddles Loma Prieta Ridge near Loma Prieta peak with level areas along the top of the ridge and steeper areas sloping to the east and west. The lowest elevation is on the east side of the Property at approximately 2,680 feet in elevation, with the high point on the western side of the Property at approximately 3,320 feet in elevation. The Property is located along Loma Prieta Road, a private road, near Mount Chual Spur Road, approximately 6 miles southeast of Mount Umunhum peak. The Property can be accessed by either Mount Umunhum Road or Summit Road. The Property has excellent views of Sierra Azul Open Space Preserve, the Upper Los Gatos Creek watershed, the Pacific Ocean, and the southern Santa Clara Valley. The Property drains into the Upper Los Gatos Creek and Alamos Creek watersheds.

Land Use and Improvements

The Property is improved with a prefabricated single-family residence, a partially built cabin, a large metal shop, a concrete pad site, other accessory structures, and dirt roads. The residence and cabin are on the west side of Loma Prieta Road, and the shop and pad site are on the east side of the road. The 1,716 square foot house was built with permits from Santa Clara County in the early 1990s and is in poor condition. The 680 square foot unfinished cabin was also constructed with permits in the early 1990s and is in very poor condition. Given the age and type of construction of the structures, neither the house nor cabin hold historical value. Pacific Gas and Electric (PG&E) provides electrical service to the single-family residence from above-ground power lines. The concrete pad site is 40 feet by 80 feet (3,200 square feet) and was constructed after 2012. The shop is approximately 3,600 square feet, was built without permits after 2012, and is in fair condition. In addition to the improvements, there are a number of storage and water containers and various debris strewn about the improved areas of the Property, which will require cleanup. The remainder of the Property is densely forested land.

Visitor Services, Land and Facilities, Engineering and Construction and Real Property staff inspected and evaluated the house and cabin to determine their viability as a staff residence. These structures were found to be in poor condition, and there is an absence of staff interest to live in this remote location. Therefore, the General Manager recommends that both structures, shipping containers and all associated debris be removed from the Property. The water tanks and concrete pad may remain for possible reuse as a helicopter landing zone or as a wildfire response staging zone. Testing for the presence of lead and asbestos shall be conducted prior to demolition. A Phase II Environmental Site Assessment was conducted on January 4, 2021, concerning a diesel fuel tank. Results recommending no remediation were received on January 14, 2021. The estimated cost for testing, hazardous materials remediation, demolition and removal of all structures and the Property clean-up is approximately \$300,000.

Habitat and Natural Resources Value

The Property contains a mixture of chaparral, pine woodland, mature oak, and mixed evergreen forest plant communities, as well as native vegetation types such as the fire-dependent mixed

manzanita and canyon live oak. One locally rare plant, the large leather root (*Hoita macrostachya*), has been observed at the Property, in addition to wetland species, including willow (*Salix* sp.) and rush (*Juncus* sp.). Special status species and locally rare species that are known to occur in the Loma Prieta area of Sierra Azul Open Space Preserve may also be present. Several invasive plant species rated by the California Invasive Plant Council (CAL-IPC) as moderate to highly invasive have also been observed around the Property, including French broom (*Genista monspessulana*; high rated), stinkwort (*Dittrichia graveolens*; moderate rated), bull thistle (*Cirsium vulgare*; moderate rated), tocalote (*Centaurea melitensis*; moderate rated), and one eucalyptus (*Eucalyptus* sp.) species. Approximately half of the Property is within a Wildfire Influence Zone, which contains wildfire susceptible vegetation up to 1.5 miles from the Wildland Urban Interface or Wildland Urban Intermix.

The Property also provides habitat for several large animal species, including deer, coyotes, foxes, bobcats, and mountain lions. A wide variety of small mammals, including woodrats, birds, and other species, occupy or migrate through the general area. The endemic Santa Cruz kangaroo rat, a Critically Imperiled subspecies that is currently waitlisted to be included as a California species of special concern, has been documented in nearby habitat and is said to have been seen on the Property by the seller. In addition, the Property is part of a landscape level terrestrial linkage between the Santa Cruz Mountains and the Diablo and Gabilan ranges. These linkages are critical for maintaining genetic diversity, facilitating migration and dispersion, and supporting large wildlife home ranges.

Water Resources and Rights

The Property falls within the Guadalupe Creek parent watershed and more specifically within the Upper Los Gatos Creek watershed to the west and the Alamos Creek watershed to the east. Barrett Creek flows north through the northeast corner of the Property from Loma Prieta Peak up through Barrett Canyon and into the Almaden Reservoir. The Property contains one active, unpermitted well with an unknown drill date, depth, and capacity that currently serves the house. There is also one permitted, inactive well on the Property that had a capacity of 53,280 gallons per day when it was drilled in 1983 and was abandoned when the well casing failed. One active 10,000-gallon water tank and four inactive water tanks are also on the Property.

USE AND MANAGEMENT

Planning Considerations

The Property is located in unincorporated Santa Clara County and outside the urban service area or sphere of influence of any incorporated municipality. The Property has a County General Plan designation and a zoning designation of Hillside (HS). In 1999, the Santa Clara County Planning Department found that all open space acquisitions by the District in unincorporated areas that are classified as a Resource Conservation Area in the County's General Plan comply with the General Plan. Per the County's Zoning Regulations, low-intensity recreation, open space, and natural preserves are allowable uses in HS zoning designation.

If purchased, the Property will be incorporated into Sierra Azul Open Space Preserve. Subsequent planning for the Property would be coordinated with the District's planning efforts for the Preserve and include consultation with appropriate agencies and organizations.

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 PUMP is amended or a Comprehensive Use and Management Plan or Preserve Plan is approved for Sierra Azul Open Space Preserve. The PUMP includes minor restoration and preservation of the Property in its natural condition, as described more fully below. If changes to land use or the physical environment were proposed in the future, the plan would be subject to further environmental review and public input.

Name:	Name the Property as an addition to Sierra Azul Open Space Preserve.
Dedication:	Indicate the District's intention to withhold dedication of the subject Property as open space at this time.
Public Access:	Designate the Property as closed to public use at this time.
Signs and Site Security:	Install preserve boundary signs as needed.
Fences and Gates:	Install and maintain fences and gates as needed.
Roads and Trails:	Continue to maintain Loma Prieta Road and other existing dirt roads in a serviceable condition in accordance with the District's adopted Resource Management Policies standards and regulatory permits to facilitate access to the site for subsequent demolition and clean-up.
Patrol:	Routinely patrol the Property.
Structures and Improvements:	Board-up and/or secure all structures and test for hazardous materials (lead and asbestos) before demolition can be undertaken. Examine relocation and reuse of shop on other District property. Disconnect electrical service prior to demolition. Seek bids for demolition of structures, site clean-up and site restoration for future consideration by the Board.
Resource Management:	Conduct plant and animal management activities consistent with the District's adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Best Management Practices and regulatory permits issued to the District as needed.

Water Resources and Water Rights:	Protect the creek on the Property consistent with the District’s adopted Resource Management Policies, Integrated Pest Management Program Guidance Manual, Best Management Practices and regulatory permits issued to the District as needed. Work to decommission the non-functioning, permitted well. Examine reuse of the functioning, unpermitted well to develop on-site water storage that would be available for firefighting agencies and District use, and work with regulatory agencies as needed to obtain any required permits.
Wildfire Fuel Management:	Implement standard District-wide fuel management and defensible space practices consistent with the District’s Resource Management Policies.

CEQA COMPLIANCE

Project Description

The project consists of the purchase of the 130.23-acre Property as an addition to the District’s Sierra Azul Open Space Preserve and concurrent adoption of a PUMP, including structures demolition, well closure, site cleanup, site restoration, and minor erosion control and sediment control measures that may be conducted to prevent erosion. 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 under the California Environmental Quality Act (CEQA) under Article 19, Sections 15301, 15316, 15325 and 15330 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. The PUMP specifies no alteration or expansion of use at this time beyond activities associated with the maintenance of the existing alignment of Loma Prieta Road and smaller service roads on site to access structures, and minor activities to implement maintenance and minor erosion and sediment control measures in accordance with District standards. Section 15301 also exempts the demolition of a single-family residence and accessory structures when it has been determined that those structures are not of historical value. The PUMP identifies that the existing house, unfinished cabin, storage structures and associated debris will be removed, wells will be closed in accordance with County standards, and the sites restored per the District’s adopted Resource Management policies.

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 PUMP specifies that the land will not be developed, will remain in a natural condition, and will be designated as an addition to the District’s Sierra Azul Open Space Preserve.

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 PUMP ensures that the Property is preserved as open space by incorporating it into the Sierra Azul Open Space Preserve.

Section 15330 exempts minor clean-up actions taken to prevent, minimize, stabilize, mitigate or eliminate the release of threat or release of a hazardous waste or substance associated with the former residential use of the site. The PUMP identifies that testing for lead and asbestos will be conducted on all structures and remediation of any materials found will be completed before demolition of any structures. The District would complete the site clean-up of any hazardous materials found as a result of a Phase II Environmental Assessment.

TERMS AND CONDITIONS

The Property is proposed for purchase at a sale price of \$1,650,000 (\$12,670 per acre). This sale price is supported by a December 7, 2020 fair market value appraisal commissioned by the District. The Property would be purchased as-is on an all-cash basis. Escrow would close on or before February 28, 2021.

After purchase, the Property would require the demolition of the existing structures and a significant clean-up. The initial estimates to complete the demolition and clean-up are approximately \$300,000.

FISCAL IMPACT

Land acquisitions brought before the Board for approval include a budget adjustment/increase to the adopted budget. If approved, an increase of \$1,650,000 to the FY21 budget is required.

Billingsley Ranch Property Purchase Amount (including \$10,000 option deposit)	\$1,650,000
Total Land Purchases approved to date for FY21	\$5,825,000
Total FY21 Land Purchases (if approved)	\$7,475,000

The following table outlines the Measure AA Portfolio 25 (Loma Prieta Public Access, Regional Trails and Habitat Projects) allocation, costs-to-date, projected future project expenditures and projected ending balance at the portfolio level for the *Loma Prieta Public Access and Regional Trails* project.

MAA25 Sierra Azul: Loma Prieta Area Public Access, Regional Trails and Habitat Projects Portfolio Allocation:	\$7,986,000
Life-to-Date Spent (as of 12/11/2020):	(\$410,150)
Encumbrances:	(\$22,295)
Billingsley Property Purchase:	(\$1,650,000)
MAA25-002 title insurance, escrow fees, environmental studies and miscellaneous costs related to this transaction ¹ :	(\$17,705)
Remaining FY21 Project Budgets:	\$0
Future MAA25 project costs (projected through FY23):	\$0
Total Portfolio Expenditures:	(\$2,100,150)
Portfolio Balance Remaining (Proposed):	\$5,885,850

¹ \$40,000 in costs reduced by \$22,295 of encumbrances.

The following table outlines the Measure AA Portfolio 25 (Loma Prieta Public Access, Regional Trails and Habitat Projects) allocation, costs to date, and the fiscal impact related to the Property purchase.

MAA25 Sierra Azul: Loma Prieta Area Public Access, Regional Trails and Habitat Projects Portfolio Allocation:	\$7,986,000
Projected Project Expenditures (life of project):	
MAA25-001 Land Conservation Opportunities	(\$410,150)
MAA25-002 Billingsley Property Purchase	(\$1,690,000)
Total Portfolio Expenditures:	(\$2,100,150)
Portfolio Balance Remaining (Proposed):	\$5,885,850

BOARD COMMITTEE REVIEW

The District's Real Property Committee held a virtual meeting on December 8, 2020 to review information about the Property and receive public input on the proposed purchase. The District distributed a notice of the Real Property Committee meeting on November 24, 2020 to property owners located adjacent to or surrounding the subject Property and interested parties. Staff provided a presentation of the Property, reviewed the purchase terms, and described how the Property would remain closed and managed as an extension of the surrounding Preserve. All members of the Real Property Committee attended the virtual meeting. No members of the public attended, and no public comments were made. The Real Property Committee recommended forwarding the proposed purchase to full Board in a vote of 3-0.

PUBLIC NOTICE

Property owners and occupants of land located adjacent to or surrounding the subject Property as well as the Sierra Azul interested parties list have been mailed or emailed a copy of the agenda for this meeting. Accordingly, all notice required by the Brown Act and District policy has been provided.

NEXT STEPS

Upon approval by the Board, staff would proceed with the close of escrow for the purchase of the Property by February 28, 2021, and take the next steps identified in the PUMP as contained in this report. The District's South Area Field Office would manage the property as an addition to the Sierra Azul Open Space Preserve.

Attachments:

1. Resolution Authorizing Acceptance of Purchase and Sale Agreement, Amending the Fiscal Year 2020-21 General Fund Capital Budget, Authorizing General Manager or Other Appropriate 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 (Sierra Azul Open Space Preserve - Lands of Billingsley)
2. Billingsley Ranch Property Location Map

Responsible Department Manager:
Michael Williams, Real Property Manager

Prepared by:

Jasmine Leong, Real Property Agent I, Real Property Department

Graphics prepared by:

Francisco Tapia Lopez, GIS Technician

RESOLUTION 21-__

RESOLUTION OF THE BOARD OF DIRECTORS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AUTHORIZING ACCEPTANCE OF THE PURCHASE AND SALE AGREEMENT, AMENDING THE FISCAL YEAR 2020-21 GENERAL FUND CAPITAL BUDGET, AUTHORIZING GENERAL MANAGER OR OTHER APPROPRIATE OFFICER TO EXECUTE CERTIFICATE OF ACCEPTANCE AND GRANT TO DISTRICT, AND AUTHORIZING GENERAL MANAGER TO EXECUTE ANY AND ALL OTHER DOCUMENTS NECESSARY OR APPROPRIATE TO CLOSING OF THE TRANSACTION (SIERRA AZUL OPEN SPACE PRESERVE - LANDS OF BILLINGSLEY)

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 (District) does hereby accept the offer contained in that certain Purchase and Sale Agreement between Mary L. Billingsley 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 Billingsley Ranch Property”).

SECTION TWO. The Board authorizes the expenditure of \$1,650,000.00 covering the purchase of the Billingsley Ranch Property, including an option deposit of \$10,000.00.

SECTION THREE. The Board approves an amendment to the Budget and Action Plan for Fiscal Year 2020-21 by increasing the Measure AA Fund Capital budget in the amount of \$1,650,000.00. Except as herein modified, the FY 2020-21 Budget and Action Plan, Resolution No. 20-18 as amended, shall remain in full force and effect.

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

SECTION SIX. The General Manager or the General Manager’s designee is authorized to provide notice of acceptance to the seller, execute all escrow documents and to extend escrow if necessary.

SECTION SEVEN. The General Manager or the General Manager’s designee is authorized to expend up to \$40,000.00 to cover the cost of title insurance, escrow fees, environmental studies and miscellaneous costs related to this transaction.

SECTION EIGHT. 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.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2021, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Larry Hassett, Secretary
Board of Directors

Curt Riffle, President
Board of Directors

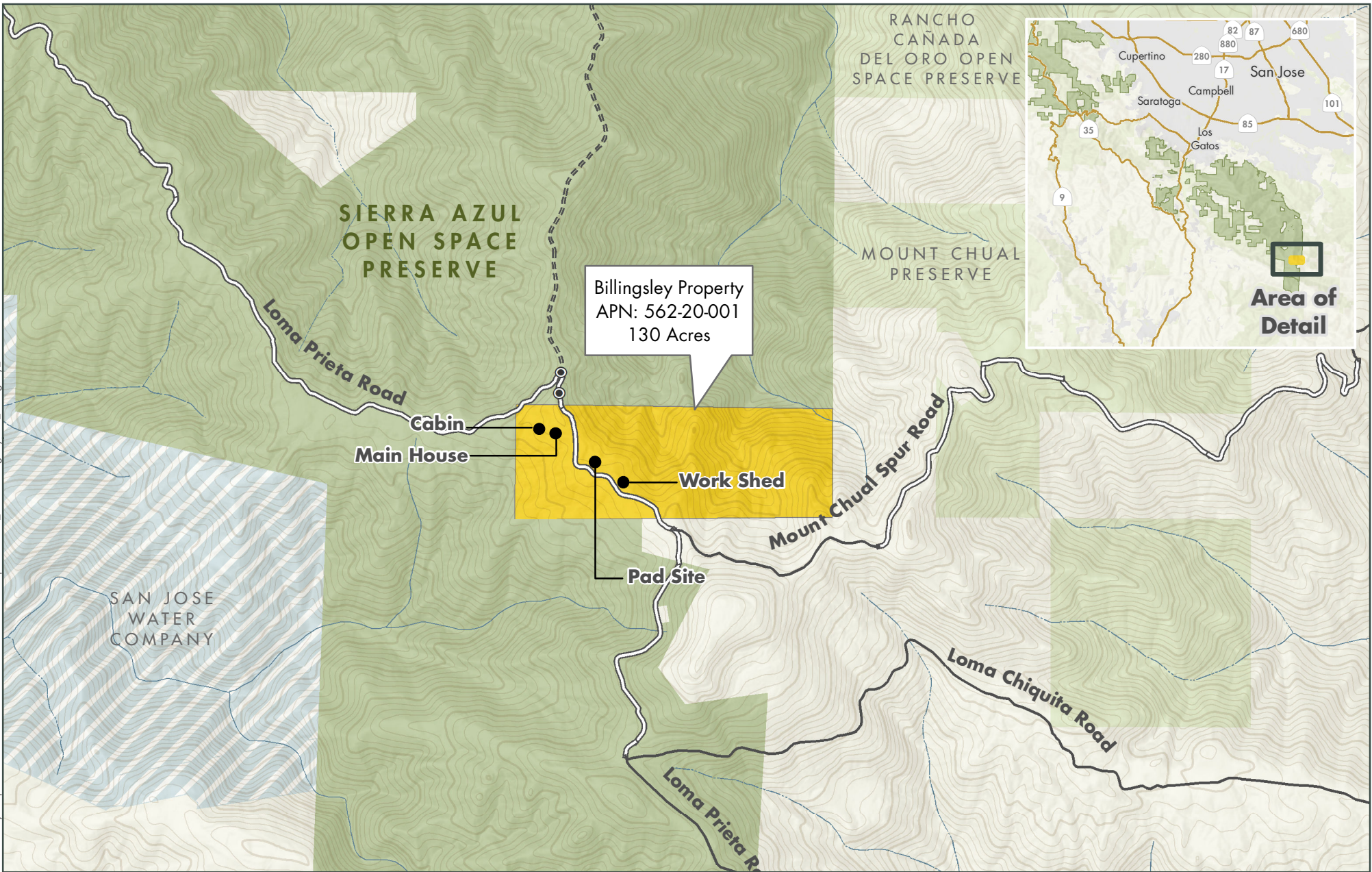
APPROVED AS TO FORM:

Hilary Stevenson, 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.

Jennifer Woodworth, District Clerk

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Billingsley

-  MROSD Preserves
-  Private Watershed Land
-  Other Protected Lands
-  Highlighted Property
-  Private Property

Midpeninsula Regional
Open Space District
(Midpen)
1/20/2021



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.