

COASTAL CONSERVANCY

Staff Recommendation
October 18, 2012

MOUNT MADONNA COUNTY PARK AREA PROPERTY ACQUISITION

Project No. 12-033-01
Project Manager: Jeff Melby

RECOMMENDED ACTION: Authorization to disburse up to \$750,000 to the Peninsula Open Space Trust for acquisition of the 490-acre Mount Madonna County Park Area property in Santa Clara County.

LOCATION: West of the City of Gilroy and adjacent to Mount Madonna County Park in unincorporated Santa Clara County.

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: [Project Location and Site Maps](#)

Exhibit 2: [Project Photographs](#)

Exhibit 3: [Conservation Lands Network Analysis](#)

Exhibit 4: [Project Letters](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of up to \$750,000 (seven hundred fifty thousand dollars) to Peninsula Open Space Trust (POST) for acquisition of the 490-acre Mount Madonna County Park Area property (Santa Clara County Assessor’s Parcel Numbers 756-42-001, 756-47-006, 756-47-007, 756-48-013, and 756-48-011), more particularly described in Exhibit 1, attached to the accompanying staff recommendation, for the purposes of preserving open space, scenic resources, plant and wildlife communities, and other natural resources; protecting watersheds; and enabling natural resource-compatible public access. This authorization is subject to the following conditions:

1. Prior to disbursement of any Conservancy funds, POST shall submit for review and approval by the Executive Officer of the Conservancy (“the Executive Officer”):
 - a. All relevant acquisition documents including but not limited to the appraisal, environmental assessments, agreement of purchase and sale, easements, escrow

- instructions, title reports and documents of title necessary for the purchase of the property.
- b. Evidence that there is legal access to the property from a public road.
 - c. Evidence that POST possesses sufficient funds to complete the acquisition.
 - d. A stewardship plan, budget, and schedule describing the actions that POST will take, prior to the anticipated future transfer of the property to Santa Clara County Parks and Recreation Department (County Parks), to monitor and maintain existing natural resources on the property, any natural resource-compatible public access, and any grazing proposed for the property.
 - e. A plan showing the design and placement of signs acknowledging Conservancy funding for the acquisition.
2. POST shall pay no more than fair market value for the property, as established in an appraisal approved by the Executive Officer.
 3. POST shall permanently dedicate the property for the purposes of preserving open space, scenic resources, plant and wildlife communities, and other natural resources; protecting watersheds, and enabling natural resource-compatible public access in an instrument acceptable to the Executive Officer, consistent with Public Resources Code Section 31116(b).
 4. POST shall submit a written monitoring report to the Executive Officer before close of escrow for the property acquisition, and at five-year intervals thereafter for as long as it holds a property interest. The report shall state the existing property conditions with respect to preserving open space, scenic resources, plant and wildlife communities, and other natural resources, protecting watersheds, and enabling natural resource-compatible public access.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
 2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the San Francisco Bay Area Conservancy Program.
 3. POST is a nonprofit organization existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”
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PROJECT SUMMARY:

Staff is recommending that the Conservancy authorize the disbursement of up to \$750,000 (seven hundred fifty thousand dollars) to POST for acquisition of the 490-acre Mount Madonna County Park Area property in Santa Clara County (the Property) (see Exhibit 1), for the purposes of preserving open space, scenic resources, plant and wildlife communities, and other natural

resources; protecting watersheds; and enabling public access that is compatible with those purposes.

Acquisition of the Property is a priority for Conservancy assistance because the Property is prominent in a County Scenic Road viewshed, is biologically rich and diverse, and is anticipated to become an important addition to Mount Madonna County Park (County Park)(see Exhibit 1). The Property is located along a proposed north-south corridor within the southern end of the Santa Cruz Mountains that has the potential to link more than 24,000 acres of properties that are already protected, or anticipated for future protection, for wildlife and sensitive habitats. It is located adjacent to the major protected land within that area, the 3,688-acre Mount Madonna County Park. Linking large privately-owned properties in the area such as the Property to protected areas like Mount Madonna County Park will play a critical role in maintaining connectivity for species that require vast home ranges, like mountain lions, especially as the adjacent area continues to face pressures from large-scale residential development.

The Property is regionally significant from both a recreational and natural resource standpoint. Its location adjacent to the County Park creates an opportunity to link and expand the recreational trail network. The site possesses an abundance of natural resources, consisting of a mix of montane hardwoods, coast live oak woodlands, redwood/conifer forest and grassland (including serpentine grassland and wildflowers at higher elevations). Of additional importance is the presence of 0.5 miles of Little Arthur Creek, a perennial creek that flows into Uvas Creek and ultimately the Pajaro River and is one of the most productive spawning streams in Santa Clara County for steelhead trout, a federally threatened species. Protection of the Property would protect this habitat, along with other plant and animal species that depend on these lands for survival. The project will help implement open space and watershed protection goals and objectives of the Conservancy's Strategic Plan, further the Conservancy's long-standing efforts to assist with open space protection, and implement State and regional plans as follows:

Bay Area Conservation Lands Network (CLN; also known as Upland Habitat Goals): The CLN is a science-based assessment tool created by multiple agencies, and used to identify priorities for conservation of large blocks of lands needed to preserve biodiversity in the Bay Area. The Conservancy helped fund creation of the CLN by the Bay Area Open Space Council. Applying the geographic information systems database and analytical tools of the CLN indicates that 477 acres of the Property is designated in the CLN as an area "Essential to Conservation Goals", which is the highest priority for conservation. Among the vegetation conservation targets that protection of the Property would help accomplish are those for regionally important serpentine hardwoods and montane hardwoods (Exhibit 3).

Santa Clara County Countywide Trails Master Plan: This plan identified a 0.5-mile route through the Property that would connect to the trails in Mount Madonna County Park, and ultimately to other regional parkland in the area.

Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (Draft) (HCP/NCCP): The HCP/NCCP is a regional partnership among six local partners and three wildlife agencies that looks at habitat resources on a large scale basis and identifies mitigation measures to protect sensitive habitat, while allowing for orderly development and public agency activities. The HCP, which will be finalized soon, covers approximately 520,000 acres, encompassing all of southern Santa Clara County, including the area where the Property is located. The Property is identified as part of the County's "Preferred Reserve Strategy" within

the “HCP area” and is noted in the HCP for containing nine to ten habitat types out of the total twenty-one total species covered under the HCP.

This project advances the Conservancy’s goals by protecting 490 acres of uplands wildlife habitat, connecting corridors and scenic areas of regional significance. This acquisition is an important step in realizing the vision of a contiguous north-south wildlife corridor and regional trail system within the western hills of Santa Clara County from Coyote Valley to the Pajaro River.

Consistent with a signed letter of intent setting forth the agreed upon \$3.85 million purchase price and other key terms for this transaction, POST entered into an option agreement with the landowner on June 27, 2012. Under this agreement, POST has two exclusive options, exercised separately, allowing further time to line up funding sources and an agency partner (anticipated to be County Parks) to whom to transfer ownership of the Property. The first option (Phase I) must be exercised by mid-September 2012, and will allow POST to acquire the three western parcels of the Property’s five total parcels (see Exhibit 1), totaling 260 acres, by November 13, 2012 for \$2 million. POST will then have 18 months from that date to acquire the remaining two parcels, totaling 230 acres, for \$1.85 million (Phase II).

County Parks has expressed interest in contributing funding to POST’s acquisition of this property for some time, and had even attempted negotiation directly with the landowner to acquire the Property prior to POST’s involvement, given its adjacency to Mount Madonna County Park and inclusion in the County’s Master Trails Plan. Recently, County Parks’ staff stated their interest in approaching its Board to seek funding for up to half of the total purchase price. Additionally, the Resources Legacy Fund has expressed interest in funding 25% of the first option through the Living Landscapes Initiative Grant Program, and also potentially 25% of the second option (thus, \$500,000 for Phase I and \$462,500 for Phase II, respectively). POST is also approaching the Wildlife Conservation Board to seek a funding contribution, given the property’s high level of importance within the Department of Fish and Game’s regional planning priorities.

During POST’s ownership of the Property, County Parks would likely assume all management responsibilities until it is able to purchase the Property from POST for permanent protection and management. POST has successfully implemented this acquisition partnership structure on two other acquisitions in Santa Clara County (Rancho San Vicente adjacent to Calero County Parks and Clark Canyon Ranch adjacent to Mount Madonna County Park).

The Conservancy has worked with POST on numerous projects in San Mateo and Santa Clara Counties. Given POST’s staff capabilities and track record, POST is well-suited to take on this large, complex acquisition. Further, POST is uniquely willing to take on the risk of acquiring the Property, in part with its own capital funds, in order to accommodate the anticipated – but by no means guaranteed – future purchase by County Parks.

Site Description: The Property consists of five contiguous parcels of hillside land located adjacent to Mount Madonna County Park. The Property’s abundance of natural resources makes it a high priority for conservation. It is a mix of montane hardwood forest and coast live oak woodland, and also contains grasslands and some soils and wildflowers at higher elevations. Specifically, it contains 42 acres of serpentine hardwoods, 229 acres of montane hardwoods and

205 acres of coast live oak forest. There are also a number of significant redwood forest tracts on the Property.

The Property contains 0.5 miles of Little Arthur Creek, a perennial creek that is one of the most productive spawning streams for the federally threatened steelhead trout in Santa Clara County. Wildlife on the Property include deer, raccoons, possums, coyote, foxes, bobcats and mountain lions, as well as doves, quail, and smaller birds of prey and an occasional Golden Eagle. Migratory birds include band-tail pigeons, which roost in the redwood trees on the summit.

With over 0.5 mile of frontage along Redwood Retreat Road, a County Scenic Road, the Property has a high scenic value. Since the upland portion of the Property is close to the boundary of the County Park, nearly 1,000 acres of the County Park lie within a one-mile radius of the Property's high point.

Project History: The current landowner purchased the Property in 1973 with several partners, and acquired sole ownership in 2002. He does not live on the Property, and its current and historic use is open space and private recreation.

Santa Clara County Parks has expressed interest to POST in the Property for some time, given the Property's adjacency to the County Park and inclusion in the County's Trails Master Plan, as well as its abundant natural resources. County Parks purchased 17 acres of frontage on Redwood Retreat Road from the landowner several decades ago. The County began negotiations with the landowner in the early 2000s to purchase the 490-acre Property, but was not successful and in 2009, asked POST to step in.

After numerous discussions and negotiations regarding price, POST and the landowner came to an agreement in late April 2012 on a purchase price for the Property of \$3,850,000, as embodied in a letter of intent. Consistent with the letter of intent, POST then entered into an option agreement with the landowner on June 27, 2012.

In 2008, with assistance from POST, the Conservancy provided a \$4,340,000 grant, partly reimbursable, to the Santa Clara County Open Space Authority to acquire the 865-acre Blair Ranch, adjacent to the Rancho Cañada del Oro Open Space Preserve, in the general vicinity of the Property. The Blair Ranch property is now part of that Preserve, and beyond it a complex of connected preserves that will facilitate a proposed trail and wildlife corridor connecting Calero, Almaden Quicksilver, Uvas Reservoir, and Uvas Canyon county parks, as well as Sierra Azul Open Space Preserve

PROJECT FINANCING

Coastal Conservancy	\$750,000.00
Resources Legacy Fund	962,500.00
Santa Clara County Parks	1,387,500.00
Wildlife Conservation Board	<u>750,000.00</u>
 Total Project Costs	 \$3,850,000.00

The anticipated source of Conservancy funds is the FY 2008 appropriation to the Conservancy from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal

Protection Bond Act of 2006 (“Proposition 84,” Public Resources Code Sections 75001 *et seq.*). Proposition 84 funds are available for all San Francisco Bay Area Conservancy Program projects that protect and restore natural habitat values of coastal watershed lands, including projects that protect land through acquisition (Public Resources Code sections 75005(m) and 75060(c)). Acquisition of the Property by POST will protect the natural habitat values of the Property, which is in the Pajaro River/Monterey Bay watershed.

Proposition 84 also requires that, for acquisition projects that protect natural resources, the Conservancy give priority to projects that meet at least one of the criteria specified in Section 75071. The proposed acquisition satisfies four of the five specific criteria because the project will: link protected habitat areas of the southern Santa Cruz Mountains, facilitating wildlife movement and resulting in a more sustainable combined acreage (Section 75071(a)); contribute to long-term protection of the water quality of Little Arthur Creek which is in the priority watershed of the Pajaro River/Monterey Bay in the Central Coast, a major biological region of the state (Section 75071(b)); support a relatively large area of under-protected major habitat types (Section 75071 (c)); and include non-state matching contributions toward the acquisition (Section 75071 (e)). See “PROJECT SUMMARY” and “Site Description” above for information related to these criteria.

As mandated by Section 75071(f), Conservancy staff has submitted to the Resources Agency, and posted on the Conservancy’s website, an explanation of how the proposed acquisition meets the criteria established in Section 75071 for use of Proposition 84 funding.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

The proposed project is consistent with the provisions of Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165, which state that the Conservancy may award grants in the nine-county San Francisco Bay Area to help achieve stated goals. Consistent with Section 31162(b), the proposed project will help “to protect...natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance.” The Property acquisition will result in the protection of Coast live oak woodland, serpentine hardwoods, montane hardwoods, and redwood forest plant communities on the Property and of the wildlife corridors that it provides. Because the Property is part of the watershed of the Pajaro River and the Monterey Bay, the project also protects watershed land.

Consistent with Section 31162(d), the proposed project will “provide open space and natural areas that are accessible to urban populations for recreational... purposes.”

Section 31163(a) provides that “any acquisition of real property by the Conservancy pursuant to this chapter shall be from willing sellers.” Consistent with this section, the seller of the Property has willingly entered into an option agreement with POST.

The Property acquisition satisfies the criteria for determining project priority under Section 31163(c), as the project has the following characteristics: (1) it is supported by regional plans, including the Santa Clara Countywide Trails Master Plan, the Conservation Lands Network, and the Santa Clara County HCP/NCCP (draft); (2) it serves a regional constituency in that the project will help preserve sensitive natural communities and also provides scenic resources and potential trail connections; (3) it can be implemented in a timely way because the first portion of it will be completed within approximately 1 month; (4) unless the acquisition closes by

November 2012, the benefits of a conservation acquisition of the Property could be lost; and (5) it includes substantial matching funds.

**CONSISTENCY WITH CONSERVANCY'S 2007
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 10, Objective D** of the Conservancy's 2007 Strategic Plan, the proposed project would protect 490 acres of uplands, wildlife habitat, connecting corridors, scenic areas, and other open-space resources of regional significance in the Bay Area.

Consistent with **Goal 11, Objective C** the proposed project will increase the amount of land accessible to the public and provide a corridor for trails.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on November 10, 2011, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** The proposed project has broad support from the public, as demonstrated by the project letters attached as Exhibit 4 to this staff recommendation.
4. **Location:** The project is located in Santa Clara County, within the jurisdiction of the nine-county San Francisco Bay Area Conservancy Program.
5. **Need:** If POST does not secure the appropriate funding, it might lose the opportunity to exercise its option agreement with the landowner and provide permanent protection for this unique landscape. Given the existence of five parcels, and over 0.5 miles of frontage on Redwood Retreat Road, which is considered very desirable for luxury homes, a buyer could build out the Property fairly significantly. Indeed, the Property has been listed for sale on the market for more than two years, and there have been a number of prospective buyers who have expressed interest. The initial offer price was within the range of prices for luxury home development occurring in the immediate vicinity. Protection of this property might be the last opportunity to save this land which is near considerable development.
6. **Greater-than-local interest:** The proposed project would protect wildlife habitat that is of state and federal significance, preserve scenic open space, and enable connection of trails in the County Park and contribute to a proposed north-south corridor within the Santa Cruz Mountains that has the potential to link over 24,000 acres of protected lands for wildlife and

sensitive habitats extending from nearly the boundary of the Forest of Nisene Marks State Park to the Pajaro River, which forms the boundary between Santa Clara, San Benito, and Monterey counties.

7. **Sea level rise vulnerability:** The Property is not vulnerable to rising sea level, as it is not close to a shoreline and lies between 400 and 1,000 feet above sea level. Wide elevation gradients on the Property will further protect the land from potential flood risks, and provide refuge for species seeking higher ground in the event of a flood.

Additional Criteria

8. **Urgency:** See "Need" above in "Required Criteria."
9. **Leverage:** See the "Project Financing" section above.
10. **Readiness:** With significant interest in the project expressed by the Resources Legacy Fund and Santa Clara County Parks, and the proposed Conservancy funding authorization, POST will provide the additional funds needed to complete Phase I of the acquisition of the Property during the agreed upon escrow period, and to prepare for County Parks funding of a large portion of the second phase of the acquisition.
11. **Realization of prior Conservancy goals:** See "Project History" above.
12. **Vulnerability from climate change impacts other than sea level rise:** Protection of this property will help advance the 2009 California Climate Adaptation Strategy given that the Property is a "healthy, resilient ecosystem with a rich plant and animal biodiversity, critical to the health, safety, and welfare of human populations." Additionally, its protection will add to a network of reserve areas that provides areas of refuge and aids the movement of species as they adjust to changing conditions associated with climate change. Protection of this property would directly help advance this strategy as it includes the following features: climatic and elevational gradients, microclimates, and low fragmentation.

COMPLIANCE WITH CEQA:

Land acquisition for the purpose of preserving the land in its natural condition and providing public access is categorically exempt from California Environmental Quality Act (CEQA), under 14 California Code of Regulations Section 15313, as an acquisition of lands for preservation of fish and wildlife habitat; Section 15325, as a transfer of an interest in land to preserve open space and habitat, and in particular, preservation of the existing natural conditions, including plant and animal habitats; and Section 15316, as an acquisition of land to establish a park where the land is in natural condition and a management plan for the park has not yet been created.

Staff will file a Notice of Exemption following Conservancy authorization.