

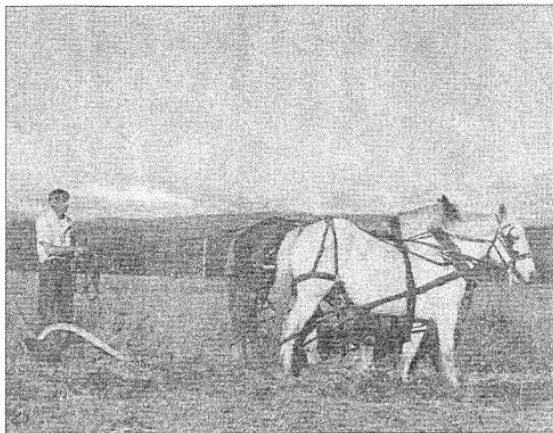
Dedicating Land to Agriculture **with** **Agricultural Conservation Easements**

EcoFarm 2018

Jered Lawson, Pie Ranch
Ben Wright, Peninsula Open Space Trust
Tamara Galanter, Shute, Mihaly & Weinberger LLP

Moderator: Allison Johnson, Shute, Mihaly & Weinberger LLP

This Land Shall Be Forever Stewarded



**A Story of a Community's Effort to Preserve the Farm
Through Sharing Property Equity**

by Jered Lawson

Photos by Nancy Warner

















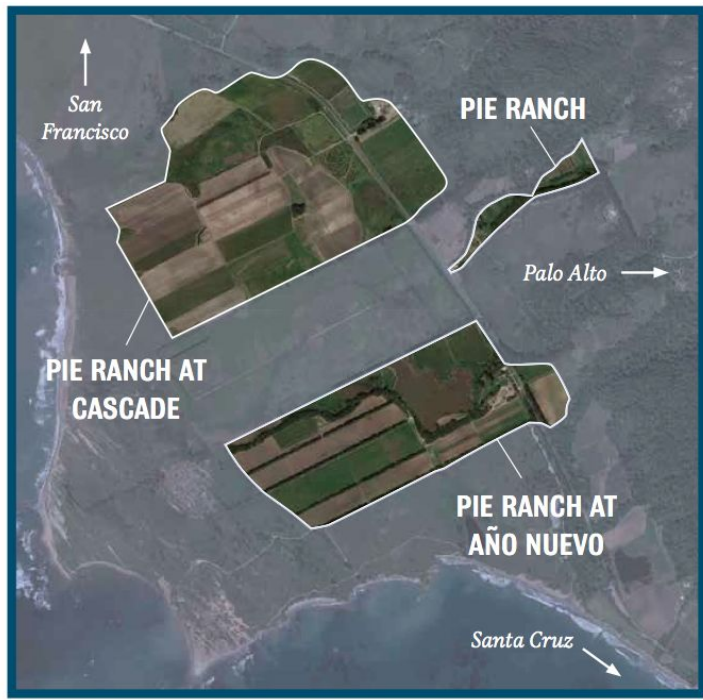














We don't want a bigger slice of the pie, we want a different pie. –Winona LaDuke

Property Rights:



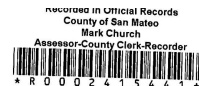
A Bundle of Sticks

Agricultural Conservation Easement

Transfer Some of the Sticks

Recorded at the request of and
when recorded return to:

Peninsula Open Space Trust
222 High Street
Palo Alto, CA 94301



Grantor: Ag Land Stewards, LLC Documentary Transfer Tax \$ 165
Grantee: Peninsula Open Space Trust
Affected Property: APN 089-230-280
Green Oaks Way, Unincorporated San Mateo County
For Title See: Recorder's Document Number 2004-241594

GRANT OF AGRICULTURAL CONSERVATION EASEMENT AND TRAIL EASEMENT Vail/Lawson Property, San Mateo County

THIS AGRICULTURAL CONSERVATION EASEMENT ("**Easement**") is granted this 22 day of June, 2017 ("**Effective Date**"), by Ag Land Stewards, LLC, (together with its successors and assigns, "**Grantor**"), to PENINSULA OPEN SPACE TRUST, a California nonprofit public benefit corporation (together with its successors and assigns, "**POST**" or "**Grantee**") (each being also referred to herein singularly as a "**Party**" and collectively as the "**Parties**"), with reference to the following facts and circumstances:

RECITALS:

A. Grantor is the sole owner in fee simple of that certain real property (the "**Conservation Property**") in San Mateo County, California, comprising Assessor's Parcel Number 089-230-280, which consists of approximately 13.24 acres of land as shown on **Exhibit A** and more particularly described in **Exhibit A-1**, which shall be subject to the terms of this Easement.

B. Grantee is a California nonprofit public benefit corporation described in Sections 501(c)(3), 509(a)(1) and 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, and is authorized to acquire and hold title to interests in real property under California Civil Code Sections 815 *et seq.*, and is responsible for implementing a program of natural area conservation and protection.

C. The Conservation Property possesses significant agricultural values, character, use and utility (collectively, the "**Agricultural Values**") of great importance to Grantor, the people of San Mateo County, and the people of the State of California. The Agricultural Values include the agricultural soils, agricultural viability and productive capacity of the Conservation Property and its historic use for Agricultural Uses, including the following: the Conservation Property contains prime agricultural soils, as identified by the County of San Mateo, that contribute to the agricultural viability of the Conservation Property; and the majority of the Conservation Property has historically been in agricultural use.

Where Are the Crops!?

Dedicating Land to Agriculture: Agricultural Conservation Easements

EcoFarm, January 25, 2018

Peninsula Open Space Trust

openspacetrust.org

Benjamin Wright

Farmland Program Manager

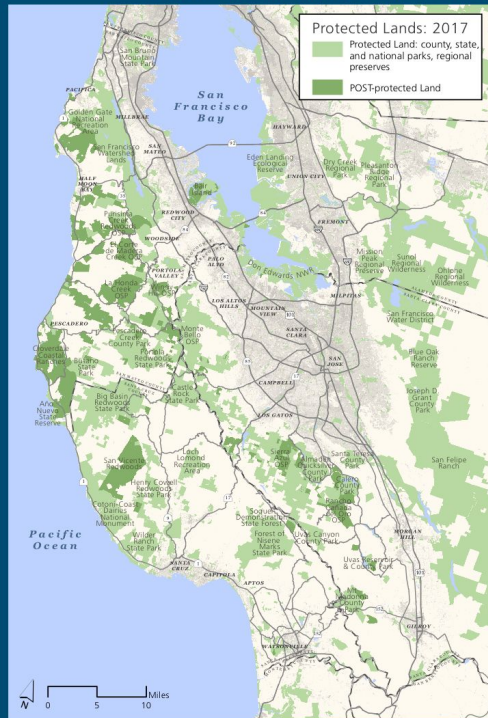


POST protects and cares for open space, *farms*
and parkland in and around Silicon Valley

Protected Lands: Then & Now



For more information, visit openspacetrust.org





FARMLAND FUTURES

SAVE LOCAL FARMS FOR US ALL

A \$25 Million Initiative

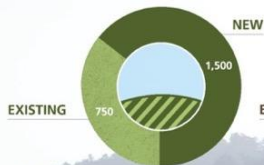
**TRIPLE THE NUMBER OF
PROTECTED FARMLAND ACRES**

**TRIPLE THE NUMBER
OF PROTECTED FARMS**

ON THE

San Mateo Coast

Protected
Acreage



Protected
Farms



FFI Goals & Accomplishments

10-year Goals

- 22 Farms
- 1,500 Crop Acres
- \$2M Infrastructure

Accomplishments

- 6 Farms
- 178 Crop Acres
- \$1.3M Infrastructure





ACE Process (steps & timeline)

- Initial conversations
(*weeks/years*)
- Draft terms (*weeks*)
- Land trust's evaluation
(*months*)
 - Mission, conservation values, capacity (initial & long-term), board of directors
- Appraisal (*3 months*)
- Draft Agricultural Conservation Easement (*weeks/months*)
 - + ROFR or OPAV



ACE Process (steps & timeline)

- Purchase and sale agreement
(weeks/months)
- Due diligence *(2 months)*
 - Title report
 - Survey
 - Baseline documentation report
 - Ag management plan
 - Mortgage subordination
- Closing/recording *(2 months)*

Aim for at least one year in total



Pie Ranch - Upper Slice: Regional Locator Map

■ Property (Based on Survey)

— Major Roads

--- County Boundary

■ Protected Land



0 1.25 2.5 5 Miles

Map date: 8/9/2017 LD
Scale: 1:125,000
Sources: ESRI, CPGO, POST
San Mateo County
San Mateo County 2017, all rights reserved
Bosman & Williams Survey 2017



Pie Ranch Upper Slice

■ Upper Slice Property Boundary

■ POST-protected Land

■ Other Protected Land

Source: ESRI, CPGO, POST, San Mateo County
Derived from data that is copyright 2014
All rights reserved. All rights reserved.

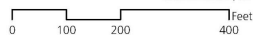
0 0.25 0.5 1 Miles



Pie Ranch - Upper Slice: Infrastructure Map



Map date: 8/12/2017 LD
 Projection: NAD83 UTM Zone 18
 Source: ESRI, USDA, Aerials Online
 Aerial Base Map: 2016,
 Bowman & Williams Survey 2017



Agricultural Conservation Easement

Old Republic Title Company
0626026793

Recorded at the request of and
when recorded return to:

Peninsula Open Space Trust
222 High Street
Palo Alto, CA 94301

2017-055095

12:13 pm 06/28/17 ES Fee: 162.00
Count of Pages 49 UN
Recorded in Official Records
County of San Mateo

Assessor/County Clerk/Recorder
Mark Church



Grantor: Ag Land Stewards, LLC Documentary Transfer Tax \$ 165

Grantee: Peninsula Open Space Trust

Affected Property: APN 089-230-280

Green Oaks Way, Unincorporated San Mateo County

For Title See: Recorder's Document Number 2004-241594

GRANT OF AGRICULTURAL CONSERVATION EASEMENT AND TRAIL EASEMENT

Vail/Lawson Property, San Mateo County

22 THIS AGRICULTURAL CONSERVATION EASEMENT ("Easement") is granted this day of June, 2017 ("Effective Date"), by Ag Land Stewards, LLC, (together with its successors and assigns, "**Grantor**"), to PENINSULA OPEN SPACE TRUST, a California nonprofit public benefit corporation (together with its successors and assigns, "**POST**" or "**Grantee**") (each being also referred to herein singularly as a "**Party**" and collectively as the "**Parties**"), with reference to the following facts and circumstances:

RECITALS:

A. Grantor is the sole owner in fee simple of that certain real property (the "**Conservation Property**") in San Mateo County, California, comprising Assessor's Parcel Number 089-230-280, which consists of approximately 13.24 acres of land as shown on Exhibit A and more particularly described in Exhibit A-1, which shall be subject to the terms of this Easement.

B. Grantee is a California nonprofit public benefit corporation described in Sections 501(c)(3), 509(a)(1) and 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, and is authorized to acquire and hold title to interests in real property under California Civil Code Sections 815 *et seq.*, and is responsible for implementing a program of natural area conservation and protection.

C. The Conservation Property possesses significant agricultural values, character, use and utility (collectively, the "**Agricultural Values**") of great importance to Grantor, the people of San Mateo County, and the people of the State of California. The Agricultural Values include the agricultural soils, agricultural viability and productive capacity of the Conservation Property and its historic use for Agricultural Uses, including the following: the Conservation Property contains prime agricultural soils, as identified by the County of San Mateo, that contribute to the agricultural viability of the Conservation Property; and the majority of the Conservation Property has historically been in agricultural use.

Key Provisions:

- Permanent
- Identifies "conservation values" being protected
- Delineates areas of allowed and prohibited uses
- Grants enforcement rights
- Sets mandatory farming requirement
- Sets process for disputes and condemnation

Right of First Refusal

Old Republic Title Company
0626026793

Recorded at the request of and
when recorded return to:

Ag Land Stewards, LLC
P.O. Box 444
Pescadero, CA 94060

2017-055096

12:13 pm 08/28/17 AG Fee: \$1.00

Count of Pages 13

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



Grantor: Ag Land Stewards, LLC
Grantee: Peninsula Open Space Trust
Affected Property: APN 089-230-280
Green Oaks Way, Unincorporated San Mateo County
For Title See: Recorder's Document Number 2004-241594

GRANT OF RIGHT OF FIRST REFUSAL TO PURCHASE PROPERTY

Vail/Lawson Property, Unincorporated San Mateo County

THIS RIGHT OF FIRST REFUSAL TO PURCHASE PROPERTY ("Agreement") is granted this 22 day of June, 2017 ("Effective Date"), by Ag Land Stewards, LLC, (together with its successors and assigns, "**Grantor**") to PIE RANCH, a California nonprofit public benefit corporation ("**Grantee**") and the PENINSULA OPEN SPACE TRUST, a California nonprofit public benefit corporation ("**POST**") (each also referred to herein singularly as a "**Party**" and collectively as the "**Parties**"), with reference to the following facts and circumstances:

WHEREAS, Grantor is the sole owner in fee simple of that certain real property (the "**Property**") in San Mateo County, California, comprising Assessor's Parcel Number 089-230-280, which totals approximately 14.5 acres of land as more particularly described in Exhibit A, which is attached hereto and incorporated herein;

WHEREAS, Grantor and POST have entered into an Agricultural Conservation Easement (the "**Easement**") to protect and preserve the agricultural, scenic, open space, habitat, and natural conservation values of the Property, and the Parties seek to ensure continued protection and preservation of such conservation values;

WHEREAS, in connection with the Easement, Grantor and POST agree that in the event Grantor decides to sell the Property, or any portion thereof, Grantee would have a right of first refusal ("**ROFR**") to purchase the Property, and if Grantee decided not to, or is unable to, purchase the Property, or any portion thereof, then POST would have a ROFR to purchase the Property, or any portion thereof;

NOW, THEREFORE, in consideration of the above and for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Key Provisions:

- Term limited to the year 2999 or until Grantee (POST) purchased takes ownership
- Grants the right to match the purchase offer of a third party
- Provides a 45-day response period followed by 60-day due diligence period

Appraisal

Appraisal's Intended Use:	To provide valuation opinions that will assist Peninsula Open Space Trust and the land owners in negotiating a suitable price and terms for a conservation easement.
Client:	Peninsula Open Space Trust
Intended Users:	Peninsula Open Space Trust and the property owners
Reporting Format:	Appraisal Report
Date of Value:	Valued as of April 10, 2016
Date of Report:	Analysis Completed April 14, 2016
Exposure Time:	Reasonable Exposure Time (the time the property would have been on the market prior to a closed sale at the appraised values) is 6 to 12 months.
Current Opinion of Value:	\$850,000 (no conservation easement).
Fair Market Rent:	\$400 per irrigated acre of farmland.
Agricultural Conservation Easement Values:	

Scenario 1: \$150,000

Terms: A requirement of organic agricultural production for a majority of the farmable area in perpetuity, a riparian protection buffer, a trail corridor easement, a restriction that the land cannot be subdivided, and a limitation on residential development (a single-family-dwelling not to exceed 2,500 square feet). The approved farm labor housing will be allowed as well.

Scenario 1a: \$185,000

Terms: Scenario 1, **plus** an option for POST to purchase the property at agricultural value, which can be exercised if the owner continues to violate agricultural use requirements after a reasonable cure period or plans to convey the property to a "non-qualified buyer" as defined.

Scenario 1b: \$425,000

Terms: Scenario 1, **plus** an option for POST to purchase the property at agricultural value, which can be exercised if the owner continues to violate agricultural use requirements after a reasonable cure period or enters into a purchase contract with anyone other than a family member.

Scenario 2: \$450,000:

Similar to Scenario 1 – a requirement of organic agricultural production for a majority of the farmable area in perpetuity, a riparian protection buffer, a trail corridor easement, a restriction that the land cannot be subdivided – **but, in addition**, no new residence will be allowed. (The approved Farm Labor housing will still be allowed).

Scenario 2a: \$470,000

Terms: Scenario 2, **plus** an option for POST to purchase the property at agricultural value, which can be exercised if the owner continues to violate agricultural use requirements after a reasonable cure period or plans to convey the property to a "non-qualified buyer" as defined.

Scenario 2b: \$550,000

Terms: Scenario 2, **plus** an option for POST to purchase the property at agricultural value, which can be exercised if the owner continues to violate agricultural use requirements after a reasonable cure period or enters into a purchase contract with anyone other than a family member.

The Assumptions and Conditions are summarized on pages 16-17 of the attached report. The following Assumptions and Conditions are of special note:

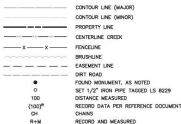
Hypothetical Values – The appraised values are based on proposed Conservation Easement terms. The terms may change, and if so, the appraised values may be affected.

Land Area – The reported gross, usable and agricultural land areas should be viewed as approximate. A survey would provide a more accurate indication of actual land areas.

Toxics – No known environmental contamination issues affect the property. However, an appraisal is not an environmental site assessment, and no research has been done to determine if such hazards exist at or near the appraised property. The property has been appraised assuming that no toxic hazards exist. Any party concerned about environmental hazards would be urged to conduct a proper investigation.

PLEASE NOTE: THIS EXECUTIVE SUMMARY MUST REMAIN ATTACHED TO THE REPORT, WHICH CONTAINS 59 PAGES PLUS RELATED EXHIBITS, IN ORDER FOR THE VALUE OPINIONS SET FORTH ABOVE TO BE CONSIDERED VALID.

LEGEND



REFERENCE DATA

- (100) ¹ RECORD DATA PER 33-M-33 SANTA CRUZ COUNTY RECORDS
(100) ² RECORD DATA PER 18-PM-45 SAN MATEO COUNTY RECORDS
(100) ³ DOCUMENT 2004-2411594 SAN MATEO COUNTY RECORDS
- DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF
CONTOUR INTERVAL = 1 FOOT
CONVERSION: 1 CHAIN = 66' US FEET

NOTES

TOPOGRAPHIC INFORMATION SHOWN ON THIS MAP WAS TAKEN FROM SURVEYS PERFORMED BY THE OFFICE OF BOWMAN AND WILLIAMS IN 2004, 2010, 2015, AND 2016. THERE IS NO LIABILITY ASSUMED BY BOWMAN AND WILLIAMS IF CONDITIONS HAVE SINCE CHANGED AND ARE NOT REFLECTED ON THIS MAP. NOT ALL TREES WERE LOCATED DURING THE ABOVE MENTIONED SURVEYS.

BUILDING CENTER NOTE

PROPOSED BUILDING CONTORS AS SHOWN HEREON WERE MEASURED AT THE DIRECTION OF BEN WRIGHT OF PENINSULA OPEN SPACE TRUST DURING A SITE VISIT IN JUNE, 2016.

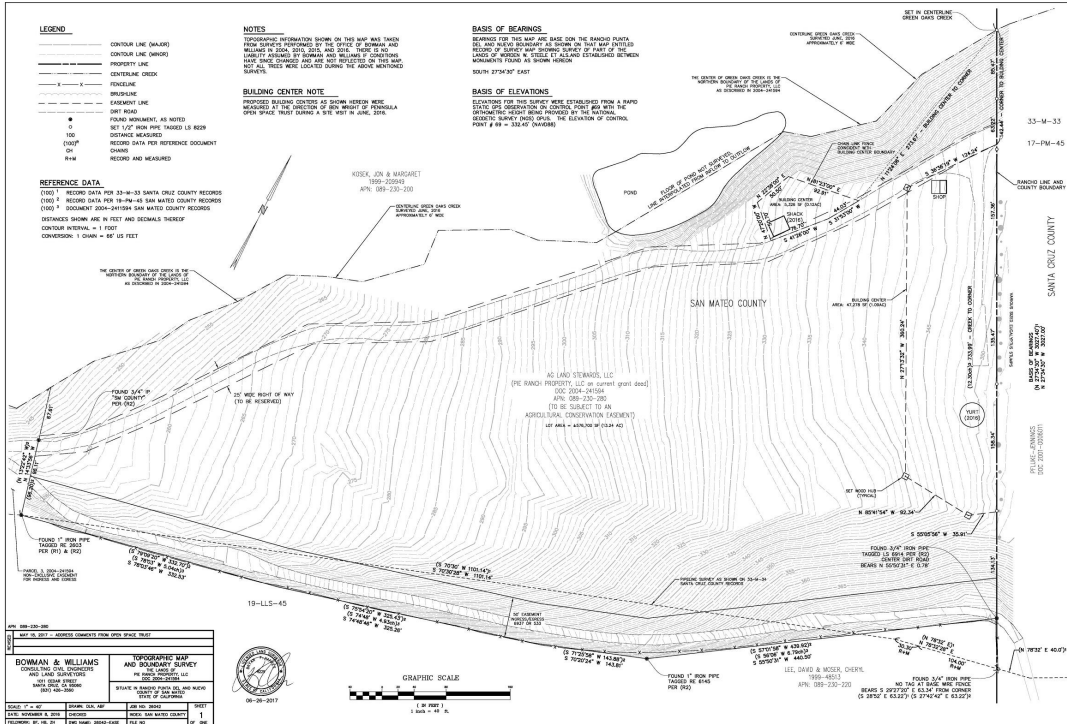
BASIS OF BEARINGS

BEARINGS FOR THIS MAP ARE BASED ON THE RANCHO PUNTA DEL ANO NUEVO BOUNDARY AS SHOWN ON THAT MAP ENTITLED RECORD OF SURVEY MAP SHOWING SURVEY OF PART OF THE LANDS OF WORDEN N. STEELE ET ALS. AND ESTABLISHED BETWEEN MONUMENTS FOUND AS SHOWN HEREON.

SOUTH 27°34'30" EAST

BASIS OF ELEVATIONS

ELEVATIONS FOR THIS SURVEY WERE ESTABLISHED FROM A RAPID STATIC GPS OBSERVATION ON CONTROL POINT #69 WITH THE ORTHOMETRIC HEIGHT BEING PROVIDED BY THE NATIONAL GEODETIC SURVEY (NGS) OPUS. THE ELEVATION OF CONTROL POINT # 69 = 332.45' (NAVD88).



Baseline Documentation Report



Pie Ranch - Upper Slice: Identified Agricultural and Sensitive Resource Areas

- Photo Point
- Building Center (0.12 acres & 1.09 acres)
- Property Boundary (Based on Survey)
- County Boundary
- Road (Based on Survey)
- Wetland Area (1.2 acres)
- Agricultural Area (6.4 acres)
- Riparian Preserve
- Green Oaks Creek Pond
- Green Oaks Creek



Map date: 9/13/2017 LD
 Projection: NAD83 UTM Zone 10
 Sources: ESRI, POST, Aerials Online
 Aerial Base Map: 2016
 Bowman & Williams Survey 2017



Baseline Documentation Report

Photopoint 3a:



Photopoint 7b:



Photopoint 13b:



Photopoint 3b:



Photopoint 7c:

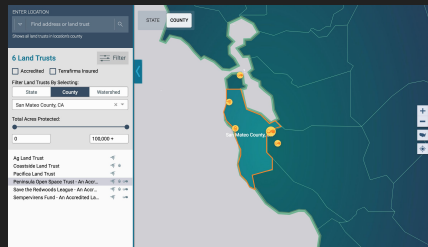
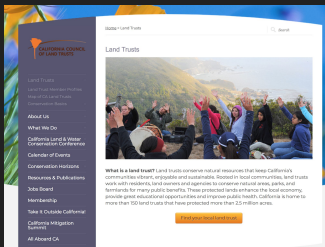


Photopoint 14 (Updated on January 8, 2018):



Resources

- National Young Farmers Coalition, *Finding Farmland, a Farmer's Guide to Working with Land Trusts* -
<http://www.youngfarmers.org/farmerlandtrustguide/>
- California Council of Land Trusts,
<https://www.calandtrusts.org/land-trusts/>
- Land Trust Alliance,
<https://www.landtrustalliance.org/what-you-can-do>
 - LTA online land trust finder map -
<https://www.findalandtrust.org/>



Questions?

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Shute, Mihaly & Weinberger LLP
galanter@smwlaw.com