

WILD CHERRY CANYON

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HOW  
WIN - WIN  
MAY BE THE ONLY WAY FORWARD

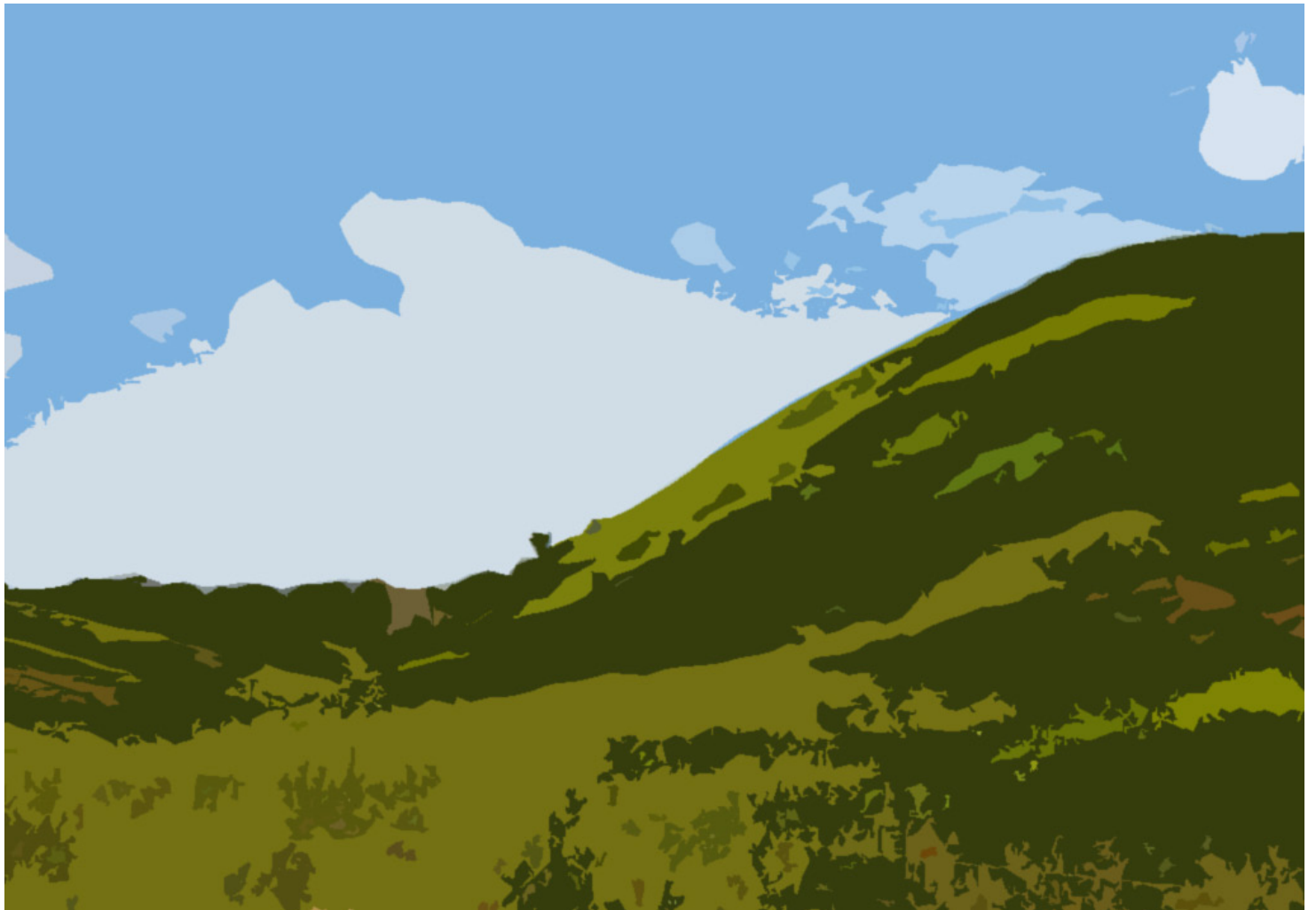
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BY TOM FRANCISKOVICH



**I** made it out to Avila Beach with my family just once this past summer. As I maneuvered the minivan through the handful of streets that make up its downtown, I was presented with a visual, real-time representation of demand outstripping supply. Sunscreen slathered beachgoers were everywhere, heading back-and-forth to the sand with umbrellas and boogie boards in-hand. After making another

hopeful pass through town in search of parking, I decided to drop off the family near the pier and then head out by myself to find a spot for the car farther away. I had no idea how much farther away “farther away” would mean. My search led me through the town’s one stoplight, where it took three cycles to get through. Once back out onto Avila Beach Drive, I passed what I estimated to be about a half-mile line of cars parked on either side of the road. So, I headed the other direction, toward Port San Luis where, again, a long procession of cars and RV’s framed the ocean view. As my search was nearing the thirty-minute mark, I passed the gate leading to the lighthouse trolley tours and said to myself. “This is where they want to build 1,500 new homes?” And the whole thing got me thinking... >>



**T**he Irish Hills are a fascinating place. At the base of the north side of the coastal range sits what is arguably the quintessential manifestation of modern-day consumerism: Costco. On the other side can be found unspoiled, virgin land that has been seldom touched and lightly tread upon since the day Cabrillo first laid eyes upon it from the deck of the *San Salvador* in 1542. And in the middle of it all, is an antiquated power facility dutifully splitting atoms around the clock as it sits precariously above three separate fault lines. Now, to further the intrigue, a New York City conglomerate, through its Carlsbad-based subsidiary, is looking to develop a massive swath of the oak-studded hillside, perhaps tripling the population of Avila Beach in the process.

It is a murky story, just how Leucadia National Corporation was able to get its hands on the Spanish land grant territory, and there appears to be no cut-and-dried accounting of it; but, by piecing together the fragments, it seems to go something like this: In the 1960's, the property owner, PG&E, through its subsidiary, Eureka Energy, signed a long-term lease, which included the development rights, to a local group that had formed under the name "Pacho Limited Partnership." As the territory in question is part of what is known as the

Pecho Coast, it was explained that when the entity was formed, a government clerk had committed a typo when keying the official documentation. Therefore, "Pecho" became "Pacho." The lease effectively gave the partnership full control of the land, as it included a 99-year term with an option to renew for an additional 99 years. For all intents and purposes, there are about 150 years remaining before control of the land reverts to PG&E. Somewhere along the line, the Pacho Partners needed capital and began seeking investors. And, they found one in Manhattan that liked what they had to say.

Leucadia National Corporation is sometimes referred to as "Baby Berkshire" for its similarity to Warren Buffett's holding company, Berkshire Hathaway. Through its founder, Joseph Steinberg, the publicly traded conglomerate has diversified into mining, drilling, development, manufacturing, and banking, among other things. It has been phenomenally successful at making money for its investors, and today it is worth about \$7.5 billion. So, when the Pacho partners explained that they controlled 2,400 acres of one of the most beautiful parts of the California Coast, a place in San Luis Obispo County called Wild Cherry Canyon, the deal was a slam dunk. Through the years, as Leucadia grew and continued acquiring smaller companies, it shuffled assets around its balance sheet to keep Wall Street happy. Somewhere along the line, 65%—a controlling interest—of a real estate development company in Southern California called HomeFed was purchased. Over time, Leucadia continued to buy out its Pacho partners, thereby increasing its interest in the land to the point where it was calling the shots. These transactions occurred within a private partnership at the time, so there is no way of knowing exactly how much Leucadia paid for its stake, and, therefore, the land, although it has been estimated at \$5 million. Today, after transferring the leasehold asset to HomeFed, Leucadia carries the present value of Wild Cherry Canyon on its balance sheet at \$17 million.

In 2000, Leucadia's executives were watching very closely as San Luis Obispo County voters overwhelmingly passed the DREAM Initiative. Although it was not a binding action, widespread support of DREAM—Diablo Resources Advisory Measure—was an >>

eye-opener. The legislation was, in essence, a symbolic proclamation of the people stating that, “At such time when the Diablo Canyon Nuclear Power Plant closes, the land should be acquired for public use and recreation.” Seeing the writing on the wall, and, just as importantly, an opportunity to monetize their investment, a local representative, Denis Sullivan, called the author of the DREAM Initiative legislation, Sam Blakeslee, to talk. It turns out that Leucadia was warming to a conservation deal. After hanging up, Blakeslee picked up the phone again to call Kara Woodruff, his wife at the time, to pass along the interesting news. Within a day or two, Woodruff, who was working as a land conservation advocate for the Nature Conservancy, was out walking the property taking in stunning ocean views with Sullivan. After a few months hashing out the particulars, the Nature Conservancy put down a deposit and entered into an agreement to purchase Wild Cherry Canyon. By 2003, the Nature Conservancy failed to raise the funds, and the deal died.

authorized. Plans were underway to charter buses full of San Luis Obispo County supporters to attend the hearing, when Woodruff’s phone rang. Her heart sank as she learned that the vote would not be put on the agenda after all. It turns out that Governor Schwarzenegger did not like how Sam Blakeslee, then a State Senator, and her husband at the time, had voted on a particular budget bill. To teach the Republican a lesson in party loyalty, the governor terminated the Wild Cherry Canyon deal.

Woodruff, who at this point had been working on preserving the 2,400-acre property for nearly 15 years, remained hopeful. It appeared that Jerry Brown, a progressive Democrat who had spoken favorably on the subject of conservation during his campaign, looked as if he would be back for another stint in Sacramento. But, by the time Governor Brown was sworn in, the economy continued to implode, and the California state deficit was forcing draconian cuts. Against a backdrop of teacher layoffs, conservation suddenly became a luxurious line item that had to go. Yet there was one last brief shot at pulling it together at the eleventh hour by sneaking the deal through while funds were still allocated. All of the parties returned to the table for one more attempt. It was during this period, however, that Senator Sam Blakeslee appeared as a guest on the Rachel Maddow Show where he openly questioned the chummy relationship between the Nuclear Regulatory Commission and PG&E as it related to public safety, particularly with the fault lines found around Diablo Canyon. Shortly thereafter ALC’s phone calls began going unanswered as PG&E dragged its feet; the final paperwork languished on various executives’ desks in perpetuity, which again derailed the Wild Cherry Canyon conservation deal.



Two years later, in 2005, Woodruff was then working at the American Land Conservancy (ALC), when she heard from Sullivan again—the partnership was ready to explore another conservation deal. This time, however, the State of California told the ALC that, to receive any funds from the state, they would have to also purchase the underlying fee title from PG&E. In other words, the ALC could not just acquire the lease to fully control the property for the next 150 years, they also had to own the land outright before then donating it back to the state, so it could be operated and maintained by State Parks. By this decree, PG&E, through its entity, Eureka Energy, would also have to come to the table if Wild Cherry Canyon were to be preserved. The land at the time was appraised at \$24 million, and the American Land Conservancy had raised \$21 million when, in an ironic twist of fate, the Great Recession caused the real estate market to collapse and, according to the new appraisal, the land was now worth \$21 million. With 100% of the necessary funds accounted for, the final hurdle facing the ALC was the Public Works Board hearing where the formality of allocating \$6.5 million of State Parks funds—the last piece of the puzzle—would be

Leucadia needed a Plan B, so it tasked HomeFed with envisioning a new destiny for the property: high-end estate homes. To test the waters, a senior vice president from HomeFed, Kent Aden, and their local frontman, a consultant named Tom Blessent, invited Woodruff out for a cup of coffee in downtown San Luis Obispo. After some pleasantries, the pair carefully moved the cups and saucers from the table and unfurled a set of oversized papers, flipping through them slowly, one page at a time. “They showed me very detailed plans,” Woodruff recalls, “descriptions and pictures of Mediterranean-style houses, landscaping, and other buildings. I told them immediately that I most definitely did not think that it was a good idea.” Despite Woodruff’s unambiguous response, HomeFed decided to share their idea at a special Avila Valley Advisory Council meeting. Although they never unveiled the detailed plans featuring the exquisite Italianate architecture of stately homes overlooking the Pacific, they did go on record explaining that they were looking at developing “as many as 1,500 homes” to help alleviate some of the pressure felt by “the lack of affordable housing” in the area. The energy in the room was tense, and although the crowd was polite, it was clear that if it had come to a vote, it would have fallen somewhere between “No” and “Hell no.”

But, HomeFed was undeterred. It had experience with large-scale development, and suspected that it could slowly win over the natives. Maybe it could be “greenwashed” by building the much talked about trail connecting Avila Beach to Montaña de Oro. If only it had a foothold in the community so that it could begin to foster relationships with local politicians. That foothold came in the form of the Harbor Terrace Project, which HomeFed bid on and won. Curiously, it was unlike any of its previous developments, and >>

## AG CLUSTER

Under a provision in San Luis Obispo County zoning ordinances, a developer can group or “cluster” homes more closely together and net more total homes, thereby increasing his or her potential for profits, on land that has been designated for agriculture. The intention of the code is to incentivize the developer to preserve the largest amount of farmland in a given area as is possible.

## UPZONING

Huge profits are made when land is purchased under one particular land-use designation, but is changed to another. For example, relatively low-cost farmland designated for agriculture is acquired by a developer, who then lobbies for a zoning change to residential or commercial, which provides a dramatic increase in value. Often, this is the realm of speculators, who will then immediately sell, or “flip,” the land to a developer.

## GREENWASH

This term describes the practice of deceptively promoting a product or practice under the perception that it is environmentally friendly. Perhaps the most classic example of this concept is the renaming of “Clean Coal” in the energy industry. In the area of land-use, greenwashing shows up in the form of a developer proposing small, but highly visible public benefits in exchange for wide-scale development.

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was much smaller in scale to boot. But, the little campground-by-the-sea was a nearly universally supported project and would serve as the perfect market entry for HomeFed. Plus, their point man, Blessent, could move up to the Central Coast and start engaging in a more meaningful way as an Avila local. The whole thing made sense, until it didn't. In a surprise move, this past August, HomeFed announced that it was pulling out of the Harbor Terrace deal, making a vague reference to unfavorable soils at the site. The rationale was immediately questioned, as the soils had been tested ad infinitum prior to the bid request. In other words, HomeFed knew what they were digging into. But, somewhere along the way they changed their mind. If Harbor Terrace was just a small, token project to generate some goodwill—something they officially deny—then it would not make sense that they would drop it in such a hasty and undignified manner, unless the calculus had changed.

**B**y all accounts, Tom Blessent is a “really nice guy.” And there is an unmistakable sincerity in his voice when he talks about wanting to be a “good partner,” but you get the distinct feeling that there are a group of suits somewhere in some far off conference room who may not be giving him the full story. And why would they? Perhaps the real play here is a bluff. Maybe, by pushing hard for wide-scale development, they are instead posturing for another conservation deal. As it stands now, the land is zoned for 50 homes, and as many as 65 if it were designed as an “ag cluster.” In order to clear the way for 1,500 units the zoning would have to change, which means that it would have to get the green light from the County Planning Department and then, most likely, through appeal with the Board of Supervisors. Although the political winds are always subject to change, current Supervisor Adam Hill, who represents the 3rd District, which includes Wild Cherry Canyon, intimated that, “I have yet to meet someone who feels that this [development] is a good idea.” And, even if it does pass muster with the planners and receives the blessing of the supervisors, it still has to endure the scrutiny of Cal Fire, which insiders suggest would be a very tough sell, especially after this past fire season. And, it is unclear as to whether the Coastal Commission would weigh in, as the development's entrance would be along the Port San Luis shoreline. Even if all of the ducks line up, Leucadia and its various entities would be looking at a minimum of eight years and millions of dollars before a bulldozer fells the first Coast Live Oak. This realization has provided comfort for some, and concern for others.

The downside to the many obstacles currently facing the development of Wild Cherry Canyon is that citizens become complacent. A company like Leucadia has the resources to forge ahead while everyone else goes on with their lives, when suddenly, one day, tides turn, zoning changes, and the project is rubber stamped. Denise Allen, a local doctor and See Canyon resident, is hoping to change the way the game is played in the future. In 2000, the SOAR Initiative in San Luis Obispo was proposed but ultimately failed with county voters. The legislation, which stood for Save Open Space and Agricultural Resources, has been adopted in various forms in an increasing number of communities nationwide, including in Ventura County where it was designed to put rezoning matters before a vote of the people, effectively ending the practice of developers buying up agricultural land then pushing the planning department to rezone, or “upzone,” for a much more valuable residential or commercial use designation. As of now, the initiative Allen is currently contemplating would cover just the Wild Cherry Canyon. It remains to be seen if it will end up on the ballot.

It can be reasoned that it is the zero-sum quality of large-scale development that stirs the emotions on either side. Just the fact that we have an “either side” makes it self-evident that when one of those sides wins, the other loses. And vice versa. But, maybe Wild Cherry Canyon is setting up to become one of those elusive “win-win” deals that self-help gurus all seem to talk about. Conservation appears to be the only way forward. On the one hand, Leucadia stands to hit a home run now with the real estate market recovering. Instead of the land value coming in at \$21 million as it did in the last appraisal, it is likely now in the \$24 to \$25 million range. Considering an initial purchase price of around \$5 million, that's a pretty sweet profit. And, for “we the people” of the Central Coast, gaining access to a natural preserve in the form of a state park that connects Avila Beach to Montaña de Oro with a 20-mile trail is a unique opportunity to benefit many generations to come. And, it appears that a deal is within reach, as Sacramento is now running surpluses, and the guy who would personally oversee the process, Secretary of Resources John Laird, who, incidentally, in 2010 was bested by Sam Blakeslee for a seat in the state senate, has shared privately that, “the State wants to do this.” The only question now remaining is, “Do we want to do this?” **SLO LIFE**