

**NOTICE OF APPEAL TO RANCHO PALOS VERDES CITY COUNCIL OF SHARON
LOVEYS TO DECISION OF PLANNING COMMISSION DATED NOVEMBER 28, 2017
REGARDING GREEN HILLS REQUEST FOR GRADING PERMIT
CASE NO. ZON2017-00324**

RECEIVED

DEC 13 2017

**COMMUNITY DEVELOPMENT
DEPARTMENT**

The Grading Permit should not be approved for the following reasons:

1. Condition No. Green Hills is in violation of its obligation to Indemnify the City of Rancho Palos Verdes in the sum of \$700,000 pursuant to the conditions and land use entitlement terms approved by the City in Resolution No. 2015-102 dated November 17, 2015, and in particular, Paragraph 15 of the Resolution (Indemnification) and Paragraph 41 of the Conditions. Green Hills is in further violation of the conditions by virtue of its refusal, despite the request of 25 Vista Verde Residents, to mediate their pending dispute with Green Hills. Pursuant to Paragraph 13 of the foregoing Resolution, the City should not approve any further land use entitlements to Green Hills when Green Hills is out of compliance with the foregoing conditions and land use entitlement terms set out in City Council Resolution No. 2015-012.
2. This “Grading Permit” application is really a disguised application to install vaults in Areas 5 & 6 which have not been lawfully authorized under Green Hills Master Plan. Appellant disputes the City’s contention that the Master Plan contains no limits with regard to the number of earth interments permitted. To the extent that such is the case, then Appellant contends that before any grading is approved (since the only purpose of grading is to prepare the land for the installation of interment vaults), the City must hold hearings so that the appropriate amount of allowed density is discussed and determined. Green Hills has no “by right” entitlement to inter individuals anywhere in the cemetery. The right to inter human remains is a conditional right, premised on the degree of intensity and density of use. The Director and the City needs to make a specific “Finding” under Chapter 17.28 of the Rancho Palos Verdes Municipal Code, and specifically Section 17.28.030(H) that the proposed use contemplated (stated as the installation of an undetermined number of vaults (needed for earth interments) will not be “more intensive” than the use and degree and intensity of use currently permitted under Green Hills Master Plan. The Planning Commission’s attempt to ignore this requirement by finding that Green Hills is relieved of any obligation, going forward, to identify the “density” and “intensity” of use contemplated under the Green Hills Master Plan for Areas 5 and 6 is erroneous. At no time has Green Hills ever applied to the City to formally amend the Master Plan; and any action by the City Council in waiving or ignoring the conditions and qualifications of the Master Plan based one or more past “compliance reviews” is misplaced.

Green Hills has a demonstrated history of practicing deception and bad-faith on the City and on the residents of the City, including Green Hills continued failure to honor its

obligation to reimburse the City \$700,000 spent by the City in connection with the litigation and settlement of the *Loveys vs. City of Rancho Palos Verdes Matter*. Green Hills was found to have practiced deception and bad-faith in connection with the construction of the Pacific Terrace Mausoleum by two independent investigative agencies hired by the City.

Green Hills is doing the exact same thing again. . . attempting to get a “leg up” and *faux* entitlement by asking for grading rights without making clear how the number of interment vaults contemplated by this permit ties in with the broader mandate set out in the Master Plan.

To the extent the City may contend that the City Council has lawfully amended the Master Plan in any manner which contradicts the April, 2007 Master Plan Amendment as it relates to Areas 5 and 6, Appellant contends that such action was *ultra vires*, and therefore null and void because any such amendments, if they were made, were done in the context of a Yearly Review and were never made in the context of a specific General Plan Amendment.

It is Appellant’s position that General Plan Amendments must be processes as such; and cannot come in the form of, or under the guise of “Building Permit Applications”, or “Yearly Performance Reviews” of any kind.

3. Since filing her Appeal, it has come to Appellant’s attention that Green Hills refuses to honor its unsecured promise to indemnity to reimburse the City of Rancho Palos Verdes for all sums paid by the City to defend the entitlements granted to Green Hills in connection with the Pacific Terrace Mausoleum project. The City of Rancho Palos Verdes has demanded that Green Hills pay the City \$700,000 (approx.) the City incurred in attorney’s fees, costs, and settlement costs in defense of the entitlements granted to Green Hills in support of the construction of the Pacific Terrace Mausoleum. Green Hills has refused the City’s payment demand. This puts Green Hills in violation of an express condition of entitlement incorporated into the Resolution approved by the City Council on November 17, 2015 (Condition No. 41(c) of Resolution No. 2015-22 signed by the Mayor on November 17, 2016). So long as Green Hills is in violation of the conditions attendant to the Pacific Mausoleum project, either revocation proceedings should be commenced; and the processing of all permits suspended pending Green Hills compliance with this condition and any other condition which is later determined to have been violated by Green Hills.

Therefore, the comments below need to be viewed in this context.

With regard to the Specific Items which make up this appeal, Appellant notes as follows:

1. The Director cannot make a “Finding” that the proposed “project” (the issuance of a ‘Grading Permit’) is in substantial compliance with the Green Hills Master Plan because it is not clear whether the proposed amount of cubic yards proposed to be graded falls within the permitted level of grading for Areas 5 and 6 contemplated under the Master Plan. The situation is confusing and needs to be clarified as follows:

a. Under the Master Plan Area 5 contemplated “gross dirt movement” of 79,252 cubic yards. Area 6 was permitted up to 201,421 cubic yards. This total was later modified on January 31, 2017, as per Resolution No. 2017-03 to a combined 137,000 cubic yards for both Areas 5 and 6 (See Below).

City’s Response and Planning Commission Decision Inadequate: The City contends that the only 27,169 cubic yards of grading have been done. There is no documentation to support this. The City contends that the proposed contours are consistent with baseline topography plan. There are no documents to support this. The City contends that the City Council Resolution 2017-03 controls. Appellant disputes this for the reasons cited above (i.e. the scope of the Resolution was limited to a yearly performance review. The Council cannot amend the Master Plan under the false guise or auspices of having conducted a yearly review).

b. It needs to be clarified how the proposed 41,200 cubic yards of “gross dirt movement” contemplated by this grading permit fits within the above-stated parameters. Until that “finding” is made, the permit cannot be approved.

2. The Director cannot make a “Finding” that the proposed “project” (the issuance of a ‘Grading Permit’) is in substantial compliance with the Green Hills Master Plan because the total number of “earth interments” to be permitted under the Grading Permit Application is not made clear; nor can it be determined whether the ‘density’ and ‘intensity’ of the proposed use (i.e. the number of “earth interments”) is consistent with the number permitted under the Master Plan. That is because there has never been a complete and thorough inventory under any of the past compliance review procedures and protocols as to whether the total number of “earth interments” in place is consistent with the total number of “earth interments” contemplated and “permitted” under the Green Hills Master Plan. Until such an inventory has been completed and approved by the Planning Commission, the Director cannot make a “Finding” that the proposed number of “vaults” to be installed (again not specified) is consistent with the number permitted under the Master Plan. If the number is not consistent, then instead of a “Permit Application”, Green Hills must apply for and procure an amendment to the Green Hills Master Plan, or otherwise seek a variance.

City’s Response and Planning Commission’s Decision Inadequate: For the reasons noted above, no grading permit can or should be approved until the City makes a specific “Finding” that the number of earth interments contemplated by the vault installation and

storage (which the grading will facilitate) is equal to or less than the number of earth interments contemplated under the April, 2007, Master Plan, as lawfully amended (and Appellant contends that the Master Plan has never been amended with regard to Areas 5 & 6 as it pertains to the number of “permitted” earth interments.

The use of the term “lawn crypts” is unclear; as is the term “lawn niches”. These are not terms which are defined or used in the City’s zoning law, or in the State law (which contemplates only three types of “interments”: (1) earth interments; (2) vault interments inside a mausoleum, and (3) cinerary interments in a colombarium. (See Health & Safety Code §7009 (Definition of “Interment”). The reason why the term “Lawn Crypts” is misleading is because by definition, “crypts” are placed inside a mausoleum (Health & Safety Code §7015).

For reasons which can only be concluded to mislead, Green Hills and the City continue to use terms which are not defined in law, refuse to identify specifically the number of “earth interments”, the number of “vault” or “crypt” interments inside a mausoleum, and the number of cinerary interments contemplated under the Master Plan. This is evidence of Green Hills intent to continue to mislead and deceive the City. To the extent that the City continues to allow such deception, the City is allowing its lawful processes to be prejudiced.

Green Hills should be “permitted” to make use of its land consistent with the Master Plan and its business objectives. By the same token, the community should be given the right to ensure that the City’s laws related to Green Hills’ use of its property aligns with and is otherwise consistent with the City’s laws and the state’s laws.

When the City refuses and continues to refuse to require Green Hills to define precisely the use and intensity of the use of its property. This undermines the ability of the City to ensure that the zoning laws and development limitations set out in the City’s Zoning Law (Chapter 17.28) are faithfully and competently carried out.

3. The Director cannot approve a Grading Permit in the absence of the Director’s receipt and approval of a soils report as required under Item No.1(j) of the Master Plan Conditions.

City’s Reponse: The City admits that no soils report has been provided. Maintains the position that until a soils report is provided and approved (after proper public disclosure), no Grading Permit should be approved or issued.

4. The Director cannot approve this Grading Permit because Green Hills has not complied with the requirements of Item 9(b) (reprinted below) to provide to the City and to the Public a plan for review and approval by the Director of unsightly aesthetic

conditions relating to the stock-piling, storage of materials and vaults, and trash, including screening and dust control measures.

City's Reponse: Green Hills has submitted a Plan to Staff. Appellant contends this is not sufficient given Green Hills prior history. The Plan to remove the unsightly aesthetic conditions has not been approved by the Commission or distributed to the Public. Before any grading permit has been approved, or granted, the (staff approved) Plan needs to be reviewed by the Planning Commission.

5. The Director cannot approve this Grading Permit until Green Hills delivers a plan for proper landscaping buffering consistent with Item No. 9(f) of the revised Master Plan Conditions (reprinted below).

City's Response: Green Hills continues to work with the neighbors on this issue, but no final resolution has been reached. Therefore, Appellant believes that no grading permit should be issued until a final resolution has been reached; as per Condition 9(f).

6. The Director cannot approve this Grading Permit unless and until the Director has further amended the visual depiction of the Green Hills Master Plan to bring it into conformity with the noted set-back distances (20 feet to the south and clarifies the road and landscape buffer and whether said road and landscape buffer are included within the boundaries of the set-back).

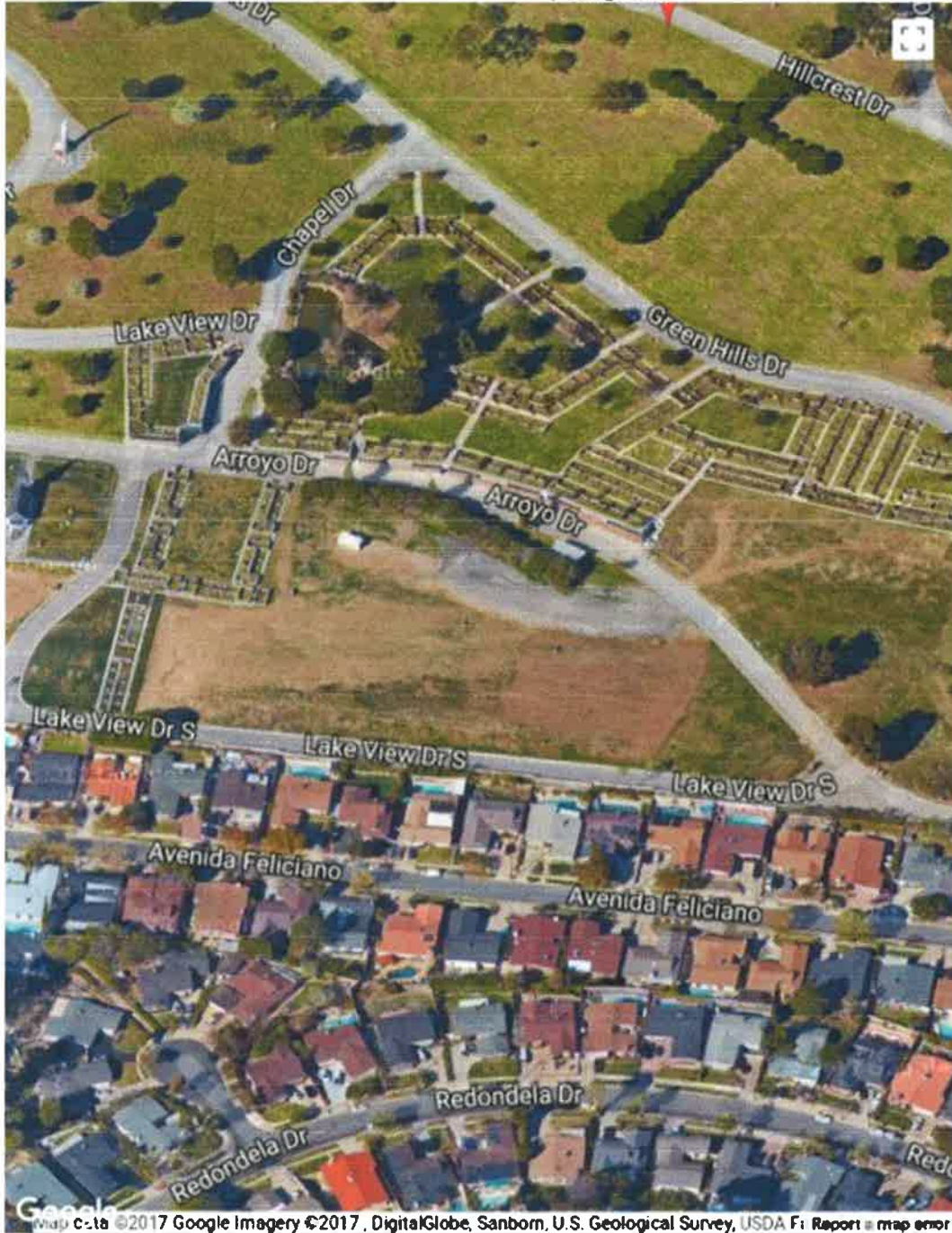
City's Response: The proposed interments contemplated under this grading proposal are outside the 20' set-back and thus consistent with the Green Hills Master Plan. If so, this should be clearly set forth in the City's and Green Hills' presentation to the Planning Commission.

Green Hills Memorial Park

Info Map

Interactive map and GPS data:

GPS Coordinates: Latitude: 33.77310, Longitude: -118.31330



Area 5 – Depiction of “Area 5” from Green Hills Website showing vacant land to be used for “earth interments” by Green Hills. Under the Master Plan, Area 5 is stated to be “Lake View Garden” (See

Below). Approved are 3,440 Double-Depth Lawn Crypts and 58 Family Estates. Lawn Crypts are considered "ground burials" (legally known as "earth interments" (Health & Safety Code Section 7009 (Definition of "Interment"); Health & Safety Code Section 7013 (definition of "Burial"); Health & Safety Code Section 7014 (Definition of "Grave").

AREA 4 NORTH TERRACE GARDEN

3.2 Acres Total Development

Ground Burials
2921 Double Depth Lawn Crypts
Family Estates
200 Family Estates (8 – 12 capacity)

AREA 5 LAKE VIEW GARDEN

5.0 Acres total Development

Ground Burials
3440 Double Depth Lawn Crypts
Family Estates
58 Family Estates (8 – 12 capacity)

AREA 6 LAKE VIEW TERRACE

6.95 Acres Total Development

Three level Mausoleum Development (One level at grade,
two levels below grade) / 2.75 acres total building footprint
Five separate buildings
7812 crypts / 4680 niches total interment count
Building height per Resolution No. 91-7
Ground Burials
3120 Double Depth Lawn Crypts

AREA 7 SOUTH WEST TERRACE

1.63 Acres Total Development

grade)
Two level mausoleum (One level at grade, one level below
Mausoleum to be constructed as five separate phases
1248 crypts in each phase / 6240 total crypt count
Building height per Resolution 91-7
Ground Burials
510 Double Depth Lawn Crypts

9. Areas 5 and 6:

- a. Grading. Approximately 137,000 cubic yards of grading is permitted to accommodate future mausoleum buildings and earth interments.

**PREVIOUSLY CONDITION NO. 1.h OF RESOLUTION NO. 2015-102.
AMENDED ON JANUARY 31, 2017 PER RESOLUTION NO. 2017-03.**

- b. Excess Material/Stockpiling. Excess earth material resulting from interment sites, ground spoils, construction, or site grading, shall be permitted to be stored/stockpiled. No later than May 5, 2017, the property owner shall develop a plan for review and approval by the Director that mitigates the unsightly aesthetic conditions related to the stockpiling, storage of materials and trash through improved screening and dust control measures. The plan shall include time frames for installing and maintaining the screening and dust control measures.

**PREVIOUSLY CONDITION NO. 1h OF RESOLUTION NO. 2015-102.
AMENDED ON JANUARY 31, 2017 PER RESOLUTION NO. 2017-03.**

- c. Mausoleums in Area 6. Allow 5 separate mausoleum buildings with each footprint measuring approximately 24,000 square feet, subject to City Council review as described in Condition No. 2b.

- d. Structure Setbacks:

West: 5 feet
South: 40 feet

- e. Earth Interments Setbacks:

West: 5 feet
South: 20 feet (presumes 8 foot landscape buffer and 10 foot wide roadway)

- f. Landscape Screening. Landscaping shall be planted within 8' of the south perimeter wall on the cemetery side prior to the completion of the roadway (refer to Condition 11.g above) for screening purposes. Landscaping shall measure at least 8 feet in height from adjacent grade. Neither the existing nor proposed landscaping shall significantly impair any near or far view as defined by the Development Code. The property owner shall be responsible for continuous maintenance of this landscaping.

**PREVIOUSLY CONDITION NO. 20.b OF RESOLUTION NO. 2015-102.
AMENDED ON JANUARY 31, 2017 PER RESOLUTION NO. 2017-03.**

Debbie Landis

(310) 780-1449

DLBODESI at Fastmail.
com

Sharon Loveys
(310) 413 5683

8 Sharon Loveys at
Yahoo.com