

TO: CITY MANAGER

1999 June 4

FROM: DIRECTOR PLANNING AND BUILDING

**SUBJECT: OCEAN VIEW AND FOREST LAWN CEMETERIES
RESPONSE TO DELEGATION**

PURPOSE: To respond to the comments and suggestions put forward by a delegation regarding Ocean View Burial Park and to respond to Council's request for further information regarding both Ocean View Burial Park and Forest Lawn Memorial Park.

RECOMMENDATIONS:

1. **THAT** a copy of this report be forwarded to Gordon Smith, 3786 Arbor Street, Burnaby, B.C.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 At its meeting of 1999 March 29, Council heard from a delegation, Mr. Gordon Smith, on the subject of Ocean View Burial Park and the recent actions of the cemetery operators, Service Corporation International Canada (SCIC). Following Mr. Smith's presentation, Council requested that the Planning and Building Department write a report responding to his comments and suggestions. This report was also to include a chronology of the history and ownership of both the Ocean View and Forest Lawn cemetery sites and to provide information regarding a 1993 mausoleum development in Ocean View and any requirements related to it.

2.0 GENERAL DISCUSSION:

- 2.1 Mr. Smith raised a number of points concerning Ocean View. The following is a response to his comments and suggestions:

- **Bylaw Infractions**

Mr. Smith stated that Ocean View has contravened a number of bylaws over the years, such as creating noise prior to 7:00 A.M. and ignoring watering regulations.

The Environmental Services Division of the Engineering Department is aware of the history of complaints at Ocean View regarding construction and/or truck noise prior to 7:00 A.M. and contrary to the Burnaby Noise or Sound Abatement Bylaw. In all instances, the complaints were followed up by municipal staff. As of 1999 May 12, the most recent complaint was from 1999 May 03, for which staff is gathering information towards the laying of charges under the Burnaby Noise or Sound Abatement Bylaw.

With respect to the watering of vegetation, cemeteries such as Ocean View, upon applying for a special permit, are permitted to sprinkle at any time those areas which are newly turfed, sodded, or seeded. In a cemetery, there may be many such areas. In addition, the watering of shrubs, flowers and gardens is permitted at any time. The Engineering Department noted that one individual did call a few times over a two week period last summer regarding watering at Ocean View. The above information was discussed but, as the individual did not leave a name or phone number, there is no formal record of a complaint.

- **Special Vehicle Permits along a "Park Zone"**

Mr. Smith suggested that a "park zone" be created along Joffre Avenue (see attached sketch) and that vehicles over 3 tonnes that enter or leave Ocean View via Joffre Avenue obtain a "permit," the cost of which would be the planting of two trees to be paid for by SCIC. While according to Section 545 of the Municipal Act, Council can, by bylaw, classify streets, regulate extraordinary traffic, and provide different regulations for different vehicle classes, regulating trucks on Joffre Avenue—a local collector street—for the purposes described above would be unprecedented and difficult to enforce. Indeed, there is no classification of roads in Burnaby which restricts vehicles that have a gross vehicle weight of 30,000 lbs (13.4 tonnes) or less, and vehicles in excess of that weight would in any event be allowed if they have a particular destination in the immediate area and take the shortest route possible. Special permits are only exacted in Burnaby for vehicles with oversize loads. Regardless, even if the area were a park—which it neither is nor is intended to be—its role as such would not preclude the presence of trucks.

- **Compliance with established bylaws**

The delegation also suggested that the City of Burnaby create a policy statement whereby no future construction at Ocean View would be considered until the relevant setback and tree bylaws are complied with. Property owners are entitled to develop their properties in accordance with the applicable zoning regulations. As the cemetery is an existing use and the trees were cut prior to the finalization of the Tree Bylaw amendment, Burnaby would be unable to prevent future development carried out in accordance with the Zoning Bylaw and

other applicable bylaws. Nevertheless, it is expected that required landscaped setbacks will be pursued in connection with any future development applications on the property.

- **Zoning Bylaw Amendment**

Mr. Smith suggests that the City of Burnaby amend the Zoning Bylaw to require that proper setbacks and screening/landscaping are in place prior to future construction being allowed at Ocean View and that an advanced deposit of \$100,000 be required for bylaw violations. While setback requirements must be met for all developments, requiring screening/landscaping prior to allowing construction would be difficult to obtain and could be impractical. Landscaping is normally the final stage in the process of developments due to the need for heavy machinery and ease of access. To landscape prior to construction would likely result in the damage of new vegetation and public space works. Finally, there is no provision in the Municipal Act that would allow Burnaby to require a security deposit prior to the occurrence of any future bylaw violations.

- **Appointing Neighbourhood Residents as Bylaw Enforcement Officers**

Finally, Mr. Smith suggests that in order to police any bylaw violations, neighbours be appointed as Bylaw Enforcement Officers to ensure enforcement. Though theoretically possible, it is unlikely that such a step would be feasible due to the following:

- The rate of infractions or suspected potential infractions would need to be sufficiently high to justify such an appointment.
- Bylaw Enforcement Officers are appointed by a resolution of Council under the Police Act.
- Bylaw Enforcement Officers must be trained to be sufficiently knowledgeable of the applicable bylaws and other aspects of the job.
- Enforcement issues are already dealt with by municipal employees. For example, with respect to Noise and Sound Abatement Bylaw infractions, an on-call dispatch phone number is available.
- Appointing residents for such work would raise questions relating to municipal liability, impartiality, and other labour relations concerns.

Area residents are to be commended for their sincere interest in neighbourhood issues, but rather than increasing the level of citizen involvement in bylaw enforcement, they should be encouraged to work with existing methods of bylaw enforcement, for example, by notifying staff of suspected bylaw violations.

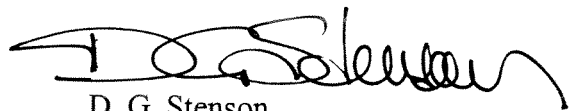
- 2.2 Ocean View was established in 1919 by a private company and was enlarged in both 1925 and 1928. Forest Lawn was established in 1935 by the Forest Lawn Cemetery Company and was enlarged in 1952 to include lots to the north. SCIC acquired shares in the companies operating both cemeteries in or around 1969, and in the 1990s, the titles to the cemeteries were transferred to SCIC. In the early 1970s, a western portion of Forest Lawn was sold and subsequently developed into a residential subdivision, Greentree Village. Later that decade, SCIC unsuccessfully sought permission under the *Cemetery Act* to sell a portion of land in Ocean View for residential development.
- 2.3 Mr. Smith referred in his presentation to a mausoleum in Ocean View which was permitted to exceed height limitations by the Board of Variance in 1993. The following information on the mausoleum development is provided:
- On 1993 April 13, the Planning and Building Department received an application for the construction of a three storey mausoleum at Ocean View. As Section 504.2 of the Burnaby Zoning Bylaw allows for a maximum two storey building, the application was considered by the Board of Variance. The appeal was to allow for the construction of a mausoleum that was three storeys high where a maximum of two storeys is permitted and 42 feet in height where a maximum of 39.37 feet is permitted. All other aspects of the application were in conformance with the Zoning Bylaw.
 - A letter dated 1993 April 23 was sent from the Board of Variance to owners and occupiers of property adjacent to the subject property, advising of the application and when the appeal was to be heard. Comments from adjacent owners presented at the Board of Variance Hearing included a petition opposed to the appeal, two letters expressing concern about landscaping and an access road, one letter opposing the appeal, and one delegation inquiring as to the landscaping plans of Ocean View.
 - Minutes from the Board of Variance hearing of 1993 May 6 include written comments from the Planning and Building Department, as well as the submitted petitions, letters and delegations described above. The Planning and Building Department comments make reference to the proposed mausoleum being buffered from the residences to the west as well as to the existence of a similar mausoleum on the site, the proposed mausoleum's stepped design, its relatively small height differential with the allowed height (2.6 ft.), and its significant setback from the property line.

- Mr. Smith indicated that architectural drawings available to view at the time showed, both in symbol and word, a screen of trees along the fence between the proposed mausoleum and Joffre Street. These drawings are not on file in the Planning and Building Department or Clerks, and, if not officially submitted as part of the proposal, would not have been considered as part of the approved plans.
- In any case, the Board of Variance does not have jurisdiction to place conditions or requirements on their approval, which in this case was given on 1993 May 6.
- With respect to the subsequent issuance of a Preliminary Plan Approval for the mausoleum, there were no conditions of landscaping in the area which occurs between the mausoleum and the west property line. This is in keeping with the provisions of the Zoning Bylaw at the time which did not require landscaped yards on cemetery lands. The plans submitted by the applicant make no mention of landscaping, other than describing the land to the west and north of the proposed mausoleum as an "undeveloped area."

3.0 CONCLUSION:

Mr. Smith presented a number of ideas and comments on the recent events at Ocean View and provided the opportunity for review and clarification. Importantly, the presentation also highlighted the interest of neighbourhood residents who wish for a better neighbour in Ocean View Burial Park. The City of Burnaby will continue to use those powers granted to it through the Municipal Act as a means to that end.

This is for the information of Council.



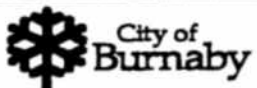
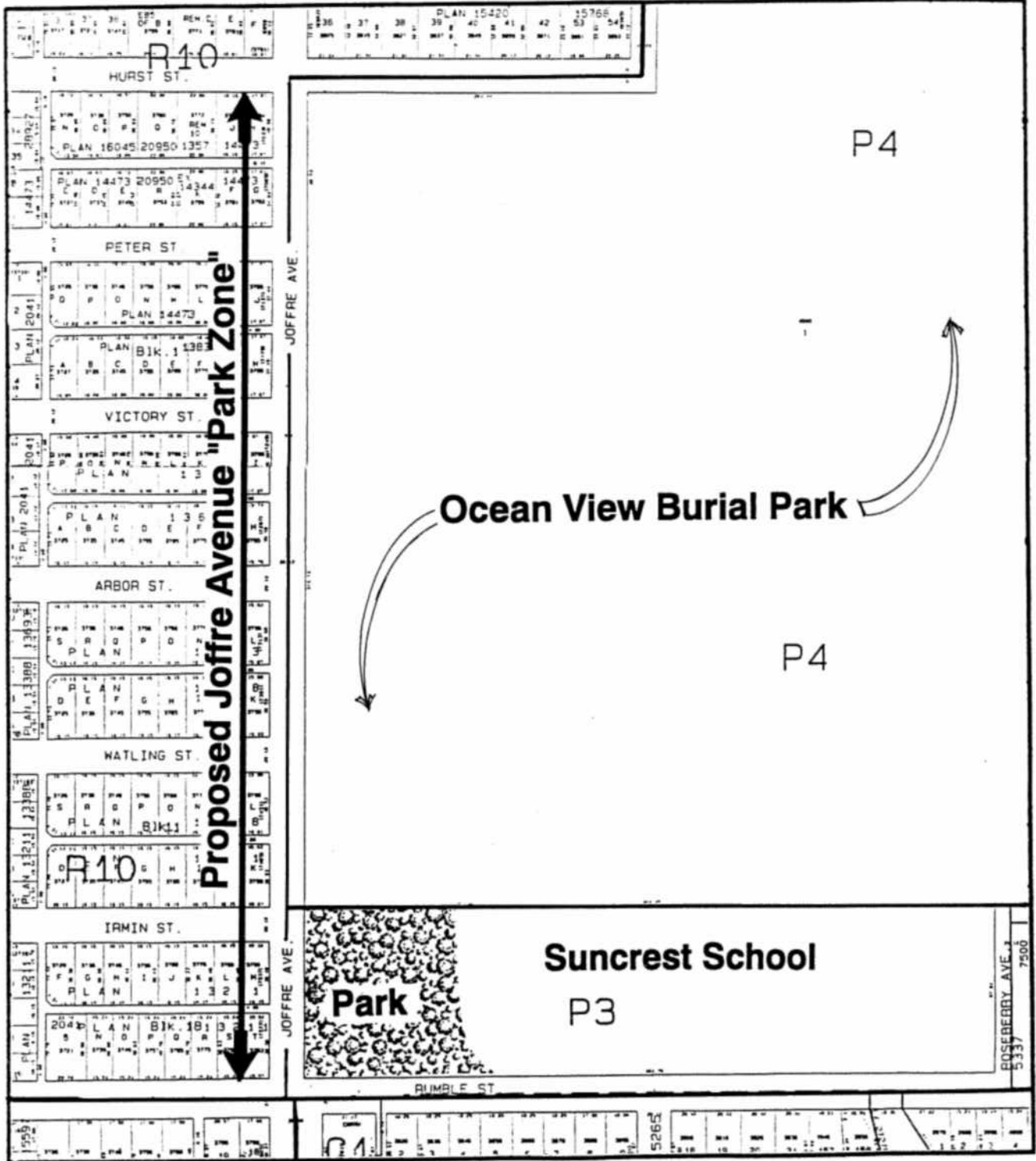
D. G. Stenson

Director Planning and Building

LS/ds

Attach.

cc: Director Engineering
City Solicitor



Planning And Building Department

Scale: N.T.S.

Drawn By: JPC

Date: May 1999

Proposed Joffre Ave. "Park Zone"

Sketch #