

**TO:** CITY MANAGER 2001 August 07

**FROM:** DIRECTOR PLANNING AND BUILDING

**SUBJECT:** **SCHARA TZEDECK CEMETERY,  
2345 MARINE DRIVE (NEW WESTMINSTER)**

**PURPOSE:** To report on the City's position regarding a proposed Development Variance Permit for the Schara Tzedek Cemetery located at 2345 Marine Drive in New Westminster.

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**RECOMMENDATIONS:**

1. **THAT** Council advise the City of New Westminister of Burnaby's opposition to Development Variance Permit 345 for 2345 Marine Drive (Schara Tzedek Cemetery) as outlined in this report.
  
2. **THAT** a copy of this report be sent to affected Burnaby residents shown on **attached** Sketch #1.

**REPORT**

**1.0 BACKGROUND**

1.1 On 2001 July 23, New Westminister City Council defeated a Development Variance Permit application for Schara Tzedek Cemetery which proposes the relaxation of P-1 zoning requirements pertaining to height of structures within required yards to allow for a retaining wall to be constructed along the site's west property line.

At a Special Meeting of New Westminister City Council on 2001 July 31, it was resolved that the aforementioned Development Variance Permit be reconsidered at the Regular Council Meeting on 2001 August 27, and that notice to that effect be given to affected property owners, including Burnaby residents. The City of Burnaby has also been invited to comment on the subject proposal by 2001 August 20.

In the fall of 2000, the City of New Westminister had approved both the rezoning and sale of New Westminister's portion of the closed Fenwick Street road right-of-way to the cemetery for future expansion.

1.2 The subject site, located within the City of New Westminister, is commonly known as the Schara Tzedek Cemetery. The Burnaby/New Westminister border in this area runs along the centre line of the closed Fenwick Street road right-of-way. Immediately to the northwest on the Burnaby side is an established R5-zoned single-family enclave (see **attached** Sketch

#1) which contains a number of newer houses. The remaining portion of the Fenwick Street right-of-way (that which is owned by Burnaby) is vegetated and currently separates the cemetery from the single-family residences. On the west side of Marine Drive is an area characterized by agricultural uses and large single-family homes developed under A2 Small Holdings District zoning. Willard Park is located nearby within this agricultural and single-family area (see **attached** Sketch #2).

- 1.3 The area surrounding the cemetery has significant slopes and is subject to severe grade fluctuations, namely at the northwest corner of the cemetery where the terrain slopes sharply down toward the northwest.

## 2.0 **DISCUSSION**

- 2.1 The proposal shows a retaining wall along the subject site's west property line, which is 360 ft. in length. The wall ranges in height from grade-level (0 ft.) to approximately 22 ft. at the site's northwest corner. It is believed the wall is necessary to allow for regrading at the northwest corner of the site to make it suitable for gravesite development. New Westminster P-1 zoning regulations, however, stipulate that structures within the required 25 ft. setback area be limited to 6 ft. in height. The proposal shows the retaining wall to be setback from the west property line by 5 ft., and to be 22 ft. at its highest point. The variance, therefore, is for height restrictions in required setbacks in the P-1 Zone.

According to the New Westminster Planning Department, the proposed retaining wall could be constructed without requiring a variance if it were to be built in 6 ft. high sections, each of which would be terraced back by 5 ft. The cemetery contends this approach to be too costly in terms of land, and hence is pursuing a non-terraced wall and requisite variance.

- 2.2 The retaining wall is to be constructed using Keystone Copac Units, which would give it an appearance of a concrete block wall. It is also proposed that the wall slope away from the west property line.
- 2.3 This proposal has been examined and assessed by Burnaby staff and is not considered supportable. Primarily:
- 1) it represents an inappropriate edge condition abutting an established single-family enclave in Burnaby; and,
  - 2) it does not comply with New Westminster's P1 zoning regulations, and is incompatible with the intent of the setback requirements recently established in the P4 Cemetery District of the Burnaby Zoning Bylaw.

With reference to the first point, it is contended that the height of the proposed retaining wall at the site's northwest corner would negatively impact the abutting single-family dwellings, as well as significantly degrade the area's single-family character and adversely affect the livability of the surrounding residents. Furthermore, and in reference to a petition sent to New Westminster City Council by affected Burnaby residents dated 2001 July 15 (a copy of which appears elsewhere on tonight's agenda), the proposal would eliminate some vegetation in the New Westminster portion of the Fenwick Street road right-of-way, the affects of which on habitat are unclear at this time. Other points raised by Burnaby residents in their petition include potential engineering issues (such as terrain instability and changes to hydrology patterns), and the instability of remaining trees (e.g., concerns over the possibility for root system failure in high-wind conditions).

The current siting of the retaining wall shows it is located approximately 11.6 m (38 ft.) from the rear property line of the single-family residences, which, due to sloping terrain, would be situated well below the grade of the wall. This difference in grades exacerbates the wall's intrusion insofar as its visual height effectively increases. Moreover, when one considers the height of any possible trees or other landscaping along the top of the wall, shadows would be created toward the west which would likely shade the residences on most mornings (depending on time of year, sun angles etc.). Furthermore, it is noted that 33 ft. of the aforementioned 38 ft. separation is comprised of the Burnaby portion of the Fenwick Street right-of-way. While the Burnaby portion of the Fenwick right-of-way may presently provide minimal buffering, it is suggested that this would cause it to be sterilized from incorporation in future developments or to be used for any other future purpose. It is not considered reasonable that Burnaby must maintain its Fenwick Street right-of-way, and the vegetation contained therein, as the sole form of limited buffering for a non-complying private development in New Westminster.

Regarding the second point, it is noted that Burnaby Council, on 1999 March 03, adopted the recommendation in a submitted report which established minimum setbacks for all uses in the P4 Cemetery District. Specifically, Section 504.6 of the Burnaby Zoning Bylaw states that:

*"A setback of at least 18.0 m (59.06 ft.) shall be provided for all uses where the lot abuts a lot in an R or RM District. Where the lot is separated from a lot in an A, R or RM District by a street, a setback of 6.0m (19.69 ft.) shall be provided".*

The intent behind this addition to the Zoning Bylaw is to ensure adequate separation/buffering of cemeteries from residential areas. The proposal to construct a retaining wall of the said proportions is premised on the cemetery's future westward expansion into the New Westminster portion of the Fenwick road right-of-way. This expansion, if it were to occur in Burnaby, would not satisfy the above setback requirements of the Burnaby Zoning Bylaw. Given that the Burnaby portion of Fenwick Street is

technically considered a street by virtue of its dedication as a road, a minimum setback of 6.0m (19.69 ft.) should apply for all uses. However, if the Burnaby portion of Fenwick Street were to be incorporated into future private redevelopments, and thus cease existence as a dedicated road, the 18m. (59.06 ft.) setback should be observed. In this scenario, and according to the current siting of the wall (5 ft. from the west property line), it is conceivable that the retaining wall and future associated grave sites could be setback as close as 5 ft. from a residential property line in Burnaby. On this basis, and given the circumstances surrounding Burnaby's need for adopting setback requirements vis-a-vis Ocean View Memorial Park and Forest Lawn Cemetery, it is recommended that Burnaby express its opposition to the Development Variance Permit application for Schara Tzdeck Cemetery. It is acknowledged that Burnaby does not have jurisdiction over the subject property, and that therefore the Burnaby Zoning Bylaw has no legal effect with respect to the site's development. However, the City of Burnaby has been invited to comment on this proposal. As such, staff believe the Burnaby Zoning Bylaw to be the basis on which to comment on the appropriateness of the proposed retaining wall and how the City would treat such a proposal if it were wholly within Burnaby. Such a consistent approach by the City is appropriate in addressing cemetery development, both within its own jurisdiction and on the City's periphery where Burnaby residents are affected.

### 3.0 CONCLUSION

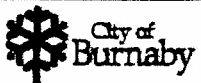
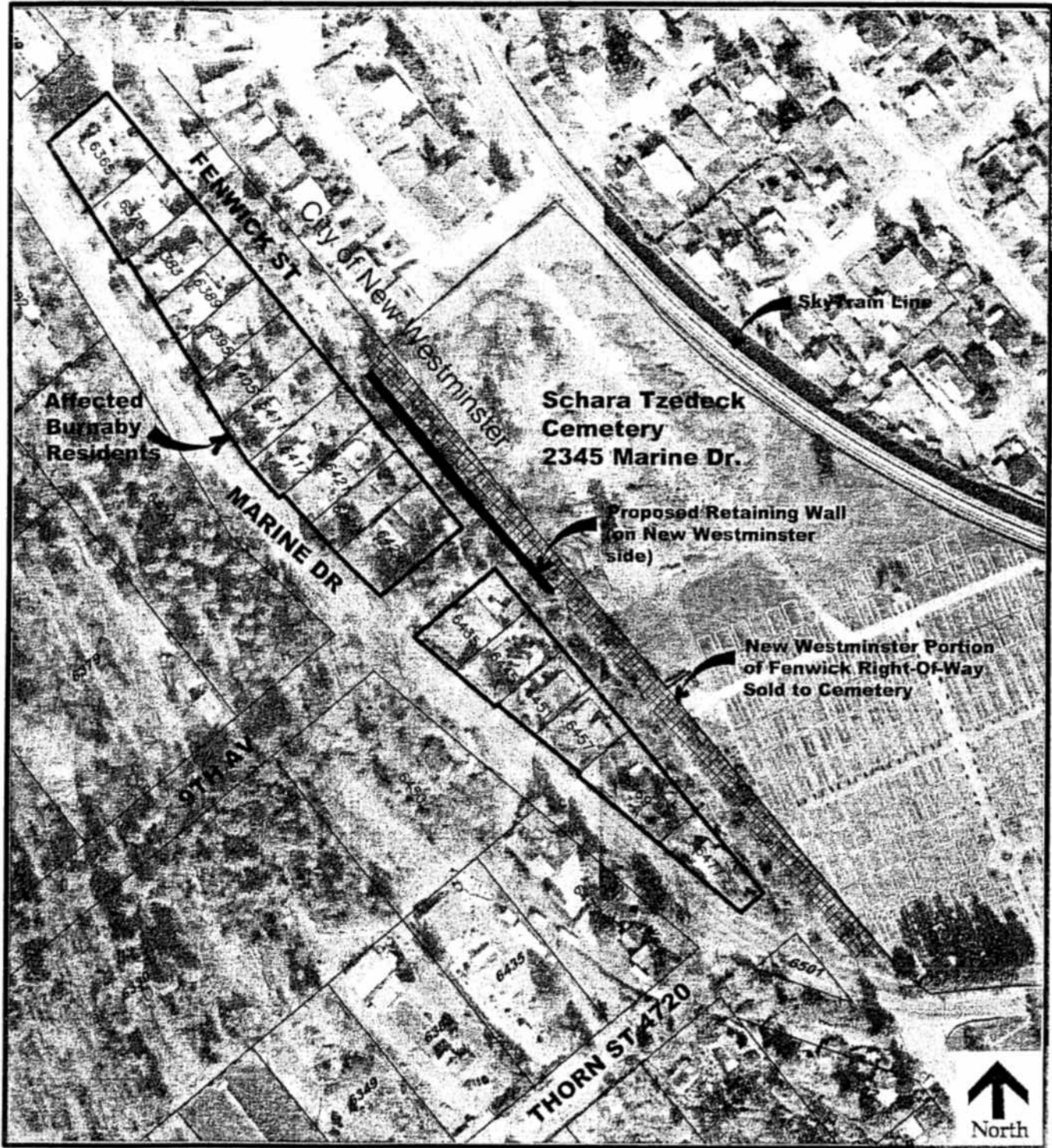
The City of Burnaby has been required to address cemetery development issues over the last few years in light of recent developments at Forest Lawn Cemetery and Ocean View Memorial Park. Council has remained consistently in favour of adequate separation of cemetery uses from residential areas, and has supported efforts to maintain appropriate edge conditions for cemeteries which minimize their visual intrusions and other impacts on abutting residential areas. The retaining wall associated with regrading the northwest corner of the subject cemetery site represents an incompatible interface with the adjacent residential area, and is not considered appropriate on this basis. In light of these points, it is recommended that Council advise the City of New Westminster of Burnaby's opposition to Development Variance Permit 345 for 2345 Marine Drive (Schara Tzdeck Cemetery) as outlined in this report.



J. S. Belhouse  
Director Planning and Building

EK:gk  
Attachment

cc: City Solicitor  
City Clerk  
Director Engineering



Planning And Building Department

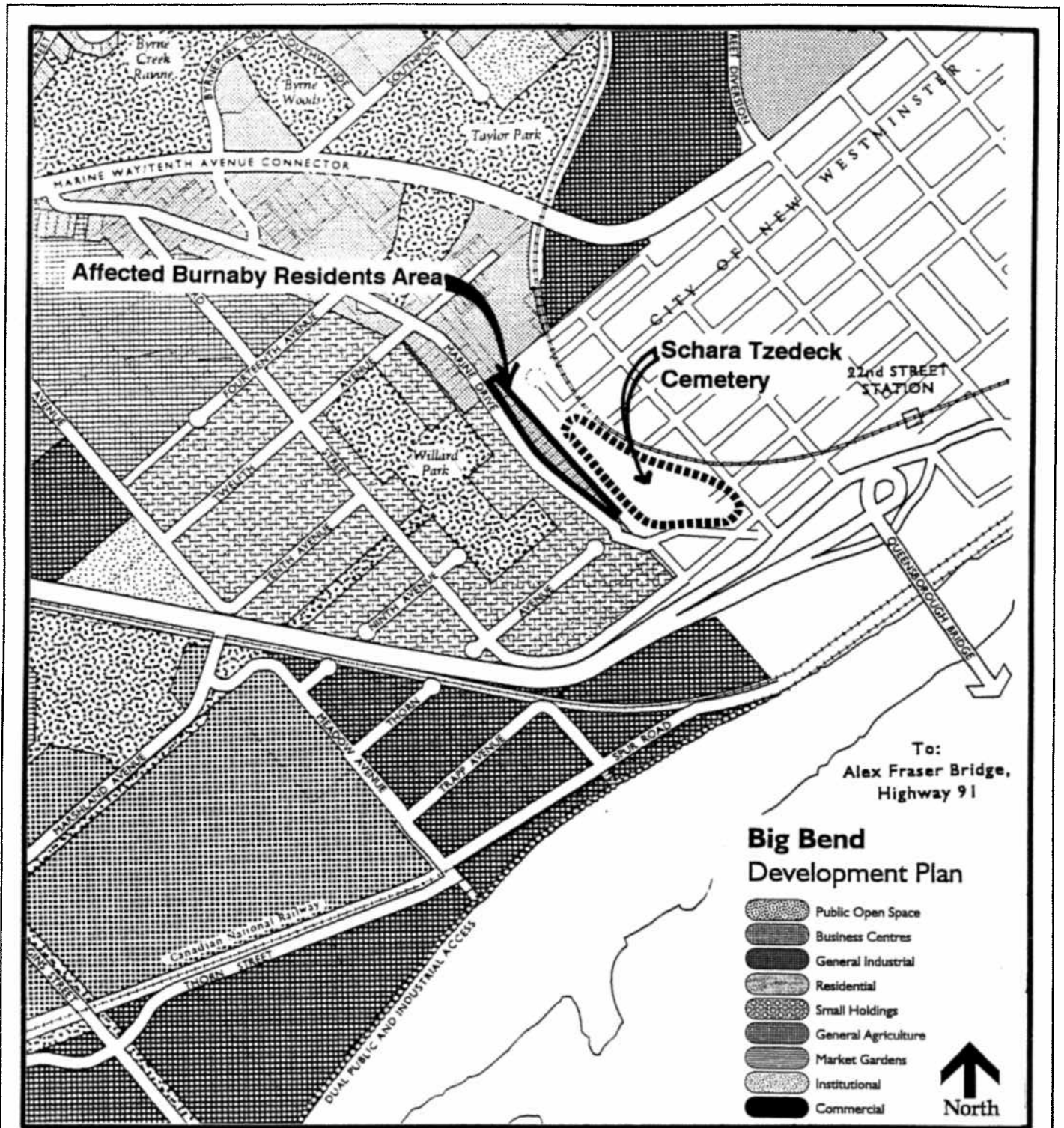
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Drawn By: J.P.C.

Date: August 2001

**Development Variance Permit # 345**  
 (2345 Marine Dr. New Westminister)

Sketch # 1



Planning And Building Department

Scale: N.T.S.

Drawn By: J.P.C.

Date: August 2001

**Development Variance Permit # 345**  
(2345 Marine Dr. New Westminster)

Sketch # 2