

HALIFAX

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Item No. 8
Halifax Regional Council
February 26, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jane Fraser, Director, Finance, Asset Management and ICT/CFO

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: January 2, 2019

SUBJECT: Grove Lands, Beaver Bank

INFORMATION REPORT

ORIGIN

July 17, 2018, Halifax Regional Council motion requesting a staff report on the status of the Grove lands in Beaver Bank that were sold to HRM for use as a park and the history of the land sale by the Grove family to Halifax County.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter section 61(1); The Municipality may acquire and own property granted or conveyed to the Municipality either absolutely or in trust for a public or charitable purpose.

BACKGROUND

In 1847 the trustees of Ann Brown gave brothers William and James Grove, as Tenants in Common, approximately 600 acres of farmland in the Beaver Bank area. In the same year George Young conveyed approximately 45 acres of farmland to the Grove brothers. Eventually William sold his half share to James, who subsequently willed a lifetime interest in the same to his two sisters, Helen and Penelope, and upon their death, to his nephew Frederick W. Grove. Helen and Penelope's wills were similar in that they gave a lifetime interest in the lands to their other sisters, and upon death, the property would go to Frederick Grove. From the early 1900's onward, Frederick Grove conveyed many parcels of land out of the original 645-acre parcel of land.

Staff reviewed the archived property acquisition file for the subject property, and surmised the following information found in this background section of this report.

In late 1985 Mrs. Olive Shea advised the former County of Halifax of her interest in donating to the Municipality a property at Beaver Bank containing approximately four (4) acres. The property was at the time assessed to the Estate of Frederick W. Grove, who was Mrs. Shea's father. Her interest in donating the property to the Municipality was for recreation purposes.

It was understood at the time that Mrs. Shea did not have a deed to the subject four (4) acre property, and was having difficulty in settling the estate. Staff, at the time, did not check every subsequent conveyance following Frederick Grove's ownership. It was assumed that the subject four (4) acre property is one for which there was no deed, as it was most likely part of the original farmland acreage that was never sold.

Even though Mrs. Shea, or the Grove Estate, had no paper title to the four (4) acres, Mrs. Shea was adamant that the four (4) acres belonged to her father. Furthermore, the Municipality had the property assessed to Frederick Grove since 1959.

In the Spring of 1986, staff inspected the subject property and found it to be quite densely forested and very wet. There was an apparent right of way to the property over abutting lands, but nothing was visible on the ground. Staff's first impressions were not favourable. However, staff consulted with the area Councillor as to whether he thought the land donation would be worth considering, in order for a report to be prepared for Executive Committee. The Councillor inspected the site, and believed it to be an acceptable piece of land.

At the same time in 1986, since there was a title issue with the property, the Municipality's solicitor had a title search done for the subject property, and was unable to find clear title. It was found that most of the land in the immediate area belonged to Grove Building and Realty Company. The Municipality informed Mrs. Shea it could not accept the land without clear title, and suggested that the estate have its solicitor search the title. It was also suggested that Mrs. Shea contact the Assessment Department to see why the property was assessed to Frederick Grove since 1959, since there appeared to be no deed for the property.

By the end of 1986 staff still could not secure any root of title for the property, nor could they find any documentation proving that the lands were owned by the estate of the late Frederick Grove. However, by the summer of 1987, the solicitor for the Municipality of the County of Halifax prepared a Warranty Deed which he asked all the heirs of Frederick William Grove to execute, including attaching a Notarial Certificate. Since there were seven (7) heirs that needed to sign the deed, and not all were residents of Nova Scotia, it took some time to have the deed executed properly.

In the Spring of 1989, the Municipality received and accepted the deed to the property from the heirs of the late Frederick William Grove.

DISCUSSION

General Property Description

The subject property, currently identified as PID 40533366, is 3.7 acres in area and at the time of conveyance to the Municipality in 1989 was wooded, undeveloped land with a brook running through it. It is located north of Galloway Drive in Beaver Bank; however, the property does not have street frontage on Galloway Drive, or any other street. Deeded access to the property is by a 20-foot-wide right of way running from the eastern side line of the Beaver Bank Road, to the western boundary of the property. A 1991 memo and sketch in the archived file indicates that the right of way is about 1800 feet in length. It was not constructed, and there appeared to be a number of encroachments by sheds and fences at the time of the memo. It was suggested that staff investigate obtaining access directly from Galloway Drive. The 20-foot wide right of way does not show up on registered survey plans for these abutting properties that would be

encumbered by it. However, a search of the property abutting the subject property to the west, identified as PID 41287046, shows that it is subject to a portion of a 6.096-meter-wide (20 feet) wide access easement referred to as parcel AE-B340533366, for access from Grove Avenue to lands of HRM identified as PID 40533366 (the subject property).

Staff will refer this file to Legal Services for further investigation of the title and of the easement issue. An easement to access the subject property from the street would have to be obtained if the property is to be developed as a park.

Council's motion dated July 17, 2018 requested a staff report on the status of the Grove lands in Beaver Bank that were sold to HRM for use as a park and the history of the land sale by the Grove family to Halifax County. Council's reason for the report is to fulfill a commitment in relation to the sale of the property by the Grove family to then Halifax County for the purpose of a park, the outcome desired being a report that outlines the history and current status of the Grove land in Beaver Bank.

Historical Context

The above background section of this report provides a history of the property, and the former County of the Municipality of Halifax's involvement with it. It should be noted that the County of Halifax considered this transaction a donation, and a review of the archived file indicates that no money exchanged hands for the acquisition of this property. Staff conducted a thorough search of the County of Halifax minutes to see if a report went to Council, but could not find any reference to the acquisition. The minutes would have helped confirm if the land had been donated, or purchased sale. However, written correspondence from the municipal solicitor referred to the acquisition as a donation.

It was clear from the initial written correspondence from Mrs. Helen Shea to the County of Halifax that the family's intention was that the subject property was to be given for park purposes. Mrs. Shea even included a rough hand drawn sketch of what the family thought the park should look like. An August 14, 2018 Herald newspaper communities article about the lands states; "Shea had a specific vision for the park, which she included in her writing of The Woodlands memorial. Her vision for the park included a playground with swings and sandboxes, a ball field, a bridge over a brook and nature trail. Shea wanted the park to be a learning experience for the local children, where they can learn about trees, flowers and fungi. "Learning in the park is the greatest. Grove Parkway, where people will find delights", she wrote in 1992.

Current Status of the Subject Property

Currently the subject property is not captured as part of HRMs Parks and Recreation land inventory and therefore does not have a park identification number. Therefore, the property is not used for recreation purposes but it can be considered to serve a conservation purpose. As noted, the property does not have street frontage and has potential clarity challenges related to an access easement.

Future Plans

While there are no zoning issues present that would hinder the ability of the property to be developed for park purposes¹ the property is located within the Beaver Bank Growth Control Area². The growth control area was established in 2006 under the Halifax RMPS to respond to analysis that indicated the Beaver Bank Road was nearing a safety threshold. Through the Regional Subdivision By-law residential development on new public roadways was limited to delay the cost of developing the Beaver Bank Bypass

¹ The property is zoned Mixed Use 1 (MU-1) under the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law

² Illustrated as Schedule J of the Halifax Regional Subdivision By-law:
(<https://www.halifax.ca/sites/default/files/documents/business/planning-development/ScheduleJBeaverbankHammondsPlainsGMARP5.pdf>)

(Margeson Drive Extension). As such there is no immediate pressure to provide additional parkland in the area to respond to future residential growth.

Needs Assessment

Parks and Recreation staff performed a needs assessment to determine if additional parkland was required in the community. A two-kilometre catchment area was examined from the closest community parks, Harold T. Barrett Junior High School Park and Beaver Bank Monarch Elementary School Park (refer to Attachment B). Two kilometres is considered the typical service area for a community park (Regional Subdivision By-law). Several parcels of parkland fall within this catchment area - approximately 19 hectares of developed parkland, and approximately 3 hectares of undeveloped parkland. It should be noted that the undeveloped parkland properties have direct road access, which is not the case for the subject property. Investigation by Legal Services of the title and the access easement is required to determine the marketability of the title and whether a registered access easement exists now or could be obtained from the abutting landowners between the public street and the subject property.

Conclusion

At this time, Staff does not envision developing the lands and will reassess their position if circumstances change in the surrounding community and the title and easement issues are resolved.

FINANCIAL IMPLICATIONS

None.

COMMUNITY ENGAGEMENT

None.

ATTACHMENTS

Attachment A	Map of Subject Property
Attachment B	Map of Parkland within Proximity to Subject Property

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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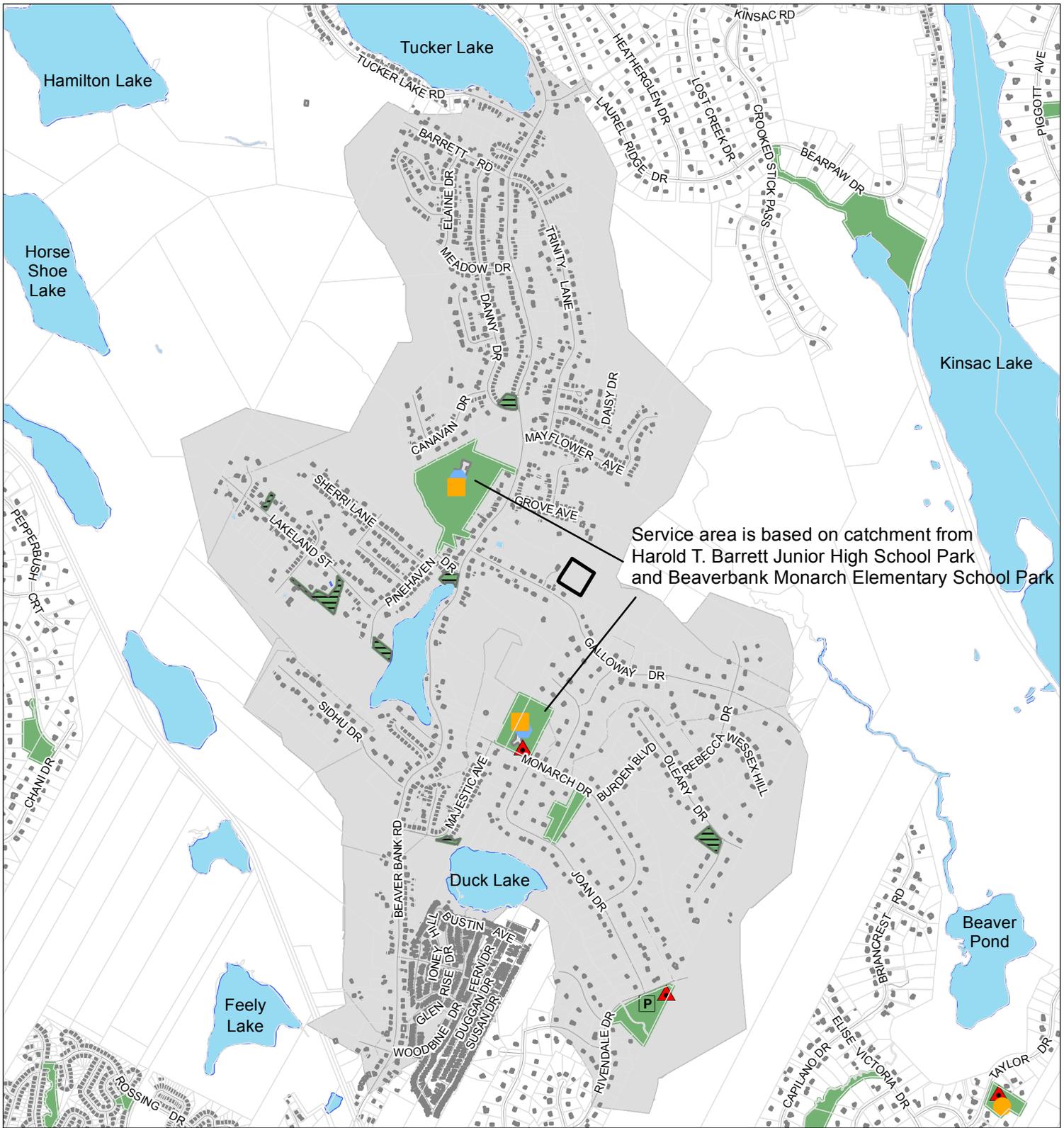


Grove Property, Beaver Bank

-  Grove Property PID 4053336
-  Parcel Boundary
-  Beaver Bank Growth Control Area
-  HRM Parkland

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Grove Property, Beaver Bank

- Grove Property PID 4053336
- Community Park 2km Service Area
- HRM Parkland
- Undeveloped HRM Parkland
- Playground
- Basketball Hoop
- Playfield (Non-regulation)
- Soccer Field
- P Parking

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