

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed by   
Jacques Dubé, Chief Administrative Officer

**DATE:** February 4, 2019

**SUBJECT:** Partial Declaration of Surplus Property and Partial Park Closure - Colby Village  
Green Area P-15

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## **ORIGIN**

This report originates with a request from the abutting property owners to acquire an additional portion of HRM owned land adjacent to previously designated surplus land and to formerly close that portion of the park in order to facilitate the real estate transaction.

## **LEGISLATIVE AUTHORITY**

Halifax Regional Municipality Charter

Section 61:

"(5)(b): "The Municipality sell property at market value when the property is no longer required for the purposes of the Municipality;"

Section 283:

"(14): Where the Council determines that any land transferred pursuant to this Section may no longer be needed for parks, playgrounds or similar public purposes, the Council may sell the land, after notifying the owners of lots in the subdivision with respect to which the land was conveyed to the Municipality, by notice published in a newspaper circulating in the Municipality at least fourteen days prior to the Council meeting at which a decision to sell will be made, and the proceeds must be used for parks, playgrounds and similar public purposes."

Administrative Order Number 50 Respecting the Disposal of Surplus Real Property.

## **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Declare the portion of the park shown as 'Area to be added to Surplus' in Attachment 'B', surplus to municipal requirements and be categorized as 'Extraordinary', as per Administrative Order 50;
2. Determine that the portion of the park shown as 'Area to be added to Surplus' in attachment 'B' is no longer needed for parks, playgrounds, or similar public purposes.

**RECOMMENDATION CONTINUED PAGE 2**

3. Set a date for the Council meeting to consider closing that portion of park shown in Attachment 'B' as 'Area of Park to be Closed' with notice to owners of the lots in the subdivision to be published in a newspaper at least fourteen days prior to the Council meeting
4. Subject to the outcome of the Council meeting, close the portion of park shown in Attachment 'B' as 'Area of Park to be Closed'.

## **BACKGROUND**

In March 2018 Regional Council declared a portion of parkland (Green Area P-15 – Attachments 'A' and 'B') surplus to municipal requirements and categorized it as Extraordinary. During discussions with the two interested adjacent property owners it was identified that additional lands could be more suitable for their use.

The parkland is located in Colby Village, a low density residential development constructed in the mid/late 1970's and through to the end of the 1980's. There are various park features in the neighbourhood including ball fields, tennis courts outdoor swimming pools and vegetated buffer areas abutting watercourses. Green Area P-15 is a 16 acre lot that was deeded to the former Halifax County by Clayton Developments in 1990.

Green Area P-15 extends from the western end of Colby Drive to the eastern end of Colby Drive and runs along the rear of many lots. It is comprised of naturally vegetated landscape centered on a brook.

The surplus and proposed to be surplus parcels are indistinguishable from one another. They are comprised of level, grassed area enclosed by a chain link fence. The parcels do not contain any significant park features and appear to have been maintained for many years by one of the abutting property owners (Attachment 'C').

The additional area proposed to be designated as surplus represents a natural boundary as it is delineated by a fence and is at the limit of natural vegetation. It is also the top a steep vegetated embankment which slopes to a brook.

The surplus parcel is 11,000sf in area, while the requested additional parcel measures approximately 5000 sf (subject to survey).

Halifax Regional Municipality Charter section 283(14) requires a public hearing when parkland is no longer required for park purposes. Notification of the public hearing would be advertised in the Chronicle Herald as per the legislation, more than fourteen days prior to the public hearing.

## **DISCUSSION**

In attempting to determine the origins of the cleared area Staff reviewed historic aerial photographs of the area from the early 1970's to full buildout of the abutting lands in the late 1980's.

The photographs (Attachment 'D') show that the land was cleared as part of the development of Balsam Place and the clearing extended to what is today the cleared surplus and proposed to be surplus parcels. There does not appear to have been any tree removal or excavation of this parkland area by private interests subsequent to its takeover as parkland.

The abutting property owners have submitted statements (Attachment 'E') regarding their experience and knowledge with the cleared areas. In their experience as abutting property owners (25 years and 11 years) they characterize it as integral with the abutting property, maintained privately and not used as part of the parkland.

The site looks and feels as though it is part of the abutting lot and not an area to be accessed by the public.

Given the parcel to be designated as surplus has many similar characteristics as the previously surplus parcel and based on those characteristics, does not provide a lot of value for public, Staff recommend the additional area be designated as surplus to Municipal needs.

Parks and Recreation have reviewed the additional area. Inclusion of this additional area would be a correction to the specified boundary line identified in the previous Report, and follows consistently with existing environmental features. The established corridor connecting Colby Village Park to Bissett Park would remain as it has existed.

While this situation arises from an illegal encroachment onto HRM parkland, site conditions can be considered a legacy of the initial development actions that shaped the Colby Village subdivision. While the municipality should not excuse illegal encroachments, in this circumstance, there are considerations, including costs to the Municipality associated with rehabilitating the identified area into the natural corridor and the reduced public access to the area due to the site configurations.

The real estate transaction will be processed under the delegated authority as per Administrative Order 2018-004-ADM.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report at this time. The market value and recommended terms and conditions of the sale of the surplus parcel will be the subject of a separate approval report with the appropriate delegated authority. The net proceeds from the sale of the property will be placed in parkland development account.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this Report. The risks considered rate Low.

### **COMMUNITY ENGAGEMENT**

As per Administrative Order 50, the area Councillor was advised of the recommendation to surplus both properties with the Extraordinary categorization. In reference to the park closure, a public hearing is required, as per Section 283(14) of the Halifax Regional Municipality Charter.

### **ENVIRONMENTAL IMPLICATIONS**

Implications not identified.

### **ALTERNATIVES**

Halifax Regional Council could choose to not declare the subject parcel as surplus under Administrative Order Number 50, and retain ownership. This is not recommended as it is not required for parks, playgrounds, or similar purposes.

**ATTACHMENTS**

Attachment 'A' – Site Plan  
Attachment 'B' – Park Closure and Surplus Area  
Attachment 'C' – Site Picture  
Attachment 'D' – Historic Aerial Photographs  
Attachment 'E' – Property Owner Statements

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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# HALIFAX

## ATTACHMENT 'A' SITE PLAN



## ATTACHMENT 'B' Park Closure – Additional Surplus Area



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## ATTACHMENT 'C' Site Photographs



# HALIFAX

## ATTACHMENT 'D' Historic Aerial Photographs

1973



1980



1987



### TIMELINE







**ATTACHMENT 'E'**  
**Property Owner Statements**

December 7, 2018

To whom it may concern,

I am writing in regards to the surplus parkland parcel of land that is located behind our home at 29 Balsam Place in Dartmouth. We purchased our home in 2008. The real estate listing promoted the property as the largest lot in Colby Village. It was a surprise to learn, at closing, that this was not the case. The parkland was cleared, grassed and fenced at that time and maintained by the previous owners. We continued to maintain the property over the last 10 years and would like to purchase the parkland parcel as it currently stands.

Yours truly,

Owners of 29 Balsam Place

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November 27, 2018

I moved to 51 Bellroyal in May, 1993. At that time, the property bordering mine, in my backyard, was cleared and fenced. I did not know until years later that it was technically greenbelt. It has always been well kept and mown over the past 25 years. The current backyard neighbours who have lived at 29 Balsam Place for approximately 10 years, have continued to take very good care of this property. I am unaware of who actually erected the fence but my guess would be early 1980's. It is very much appreciated that part of this area within the fence has been declared surplus, but just makes good common sense to also include the small area that has not been declared surplus yet. This would be in keeping with the totally fenced in area, as it exists now, and has been for 25+ years, probably closer to 35 years. It is my opinion, that if the small area which hasn't been declared surplus yet, were to grow up and grow wild, it would not be in keeping with the existing property which is well tended to, and adds to the adjacent properties.

Owner of 51 Bellroyal Court