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Item No. 15.1.6
Halifax Regional Council
February 7, 2023

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: January 16, 2023

SUBJECT: Property Matter - Park West School Park

ORIGIN

January 26, 2021 motion of Halifax Regional Council:

THAT Halifax Regional Council direct the Chief Administrative Officer (CAO) to:

1. Work with the Province of Nova Scotia to undertake a community consultation on the possible disposal of the Park West School Park land (identified as PIDs 40682411, 40724619, 40774077) to the Province for the proposed school, as outlined in the staff report dated January 13, 2021;
2. Give notice in accordance with Charter Section 283(14), of the Municipality's intention to consider the disposal of the said Municipal parkland at a future Regional Council meeting; and
3. Subject to the community consultation, return to Regional Council for consideration of the proposed disposal of the said Municipal parkland pursuant to the Intergovernmental Transfer provisions under Administrative Order 50 and Administrative Order 2018-004.

December 7, 2021 motion of Halifax Regional Council:

Should the Province advise Halifax Regional Municipality that it has determined that the Municipality's Park West School Park (PIDs 40682411, 40724619, 40774077) is required as a site for a new school, Halifax Regional Council direct the Chief Administrative Officer to prepare a report and recommendation with respect to whether or not the properties are surplus to the needs of the Municipality under *Administrative Order 50, the Disposal of Real Property Administrative Order, Intergovernmental Transfer* process.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, SNS 2008, c 39:

Section 61

(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

...

(5) The Municipality may
(b) 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

1. The Municipality can acquire and sell real estate within its legislative provisions. Real estate holdings can be a “corporate” asset necessary for municipal functions and purposes of the business units or may be held for particular use of inhabitants of HRM for example, parks and institutional uses. Corporate assets are subject to corporate review by the Asset Owner Business Unit for continuing requirement. Where the business units of HRM have determined that properties no longer serve an operational requirement of the corporation or otherwise appear to be surplus to the needs of the Municipality, then the policy of disposal to be followed in all cases, excepting municipal property which requires process through statute or common law or property available in the Municipal Business Parks, is as directed by this policy of Council.
2. The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories

Intergovernmental Transfer

- (f) Properties requested by another level of government which:
 - i. will be used for a public purpose; and
 - ii. sold for market value.

...

4. Disposal Methods

Intergovernmental Transfer

- (4) This category of properties will be dealt with as directed by Council.

Other relevant legislation

Education Act, Schedule A of Chapter 1 of the Acts of 2018

Section 75

- (1) A regional centre may enter into and carry out a lease or agreement for the renting of premises for public school purposes.
- (2) No lease or agreement may be entered into under subsection (1) that
 - (a) fails to place the rental premises completely under the control of the regional centre; or
 - (b) contains any undertaking or agreement that abridges or modifies any power or duty of the regional centre.

Section 81

- (5) A regional centre may not sell a school property to which an agreement with respect to a community facility relates without first offering to sell the school property to the municipality.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Determine that PIDs, 40724619, 40774077 and a portion of 40682411 as shown on Attachment “A” (the “Subject Lands”) are no longer be needed for parks, playgrounds or similar public purposes;
2. Declare PID’s 40724619, 40774077 and a portion of 40682441 as shown on Attachment “A” surplus to municipal requirements and categorize as ‘Intergovernmental Transfer’, as per Administrative Order 50

3. Authorize the Chief Administrative Officer to negotiate and execute an Agreement of Purchase and Sale of PID's 40724619, 40774077 and a portion of 40682441 with the Province, which agreement shall contain a revisionary interest for the Subject Lands back to HRM, on terms satisfactory to the Chief Administrative Officer.

BACKGROUND

On January 26, 2021, Regional Council considered a staff report outlining a request from the Province of Nova Scotia (the "Province") to obtain the municipally owned Park West School Park for a new school (Attachment B). The Province indicated that a new school is required in Clayton Park West based on increased school enrollment and further highlighted challenges in finding a site in the area. Regional Council approved a recommendation to undertake public consultation on the proposed transfer of the park to the Province.

The Park West School Park site consists of four parcels. The adjacent PID 40867400 is owned by the Province and is the location of the existing primary to grade 9 Park West School. The Subject Lands are the municipal parkland parcels the Province is interested in obtaining (Attachment B). The Subject Lands were conveyed to Halifax Regional Municipality, between 1994 and 1999 during the development of Clayton Park West as part of the parkland dedication mandated under subdivision requirements. The Subject Lands are approximately 4.25 ha and currently contains a soccer field (0.75 ha) and a forested area (3.5 ha) with a 280 m pathway connecting Radcliffe Drive and Lanshaw Close. There are informal trails within the forested area connecting the formal pathway to the soccer field and school. The portion of PID 40682411 containing the sports field will be retained by the Municipality; the forested portion of the lot (Attachment A) is recommended for surplus designation. The surrounding community contains parks that include a variety of recreation amenities and natural areas.

The January staff report indicated that there may be a sufficient amount of parkland and variety of outdoor recreation amenities in the Clayton Park West area to support the transfer of land to the Province. The report also advised that while Regional Council may proceed with the parkland disposal by only posting an advertisement within the Municipal Notices section of the newspaper for two consecutive weeks prior to deciding, public consultation should be undertaken.

Between May 31, 2021 and June 21, 2021 information about the potential transfer of the lands and a survey were hosted on the Shape Your City portal. The public consultation was hosted on HRM's digital platforms but done in partnership with the Province. Consultation was focused on the merits of transferring the Subject Lands to the Province for the development of the proposed school. Background information for the consultation was provided by the Province, which included a Transportation Impact Study and high-level details about the school. The on-line platform also contained links to the January 2021 staff report and the Urban Forest Master Plan. In addition to the survey, residents had the option to email comments. For questions related to the school, residents were directed to a contact person provided by the Province.

There were 380 survey respondents, over 82% were from two postal code areas closest to the lands: B3S and B3M. The majority of respondents, 69%, did not support the transfer of municipal parkland to the Province for the new public school. The loss of parkland was the most cited reason for not supporting the land transfer (244 respondents), followed by 144 who prefer an alternative location. 116 cited compatibility issues with surrounding uses and 60 had 'other' reasons, a third of which were concerns related to loss of forest and wildlife habitat.¹

Unique comments were provided by 257 respondents; 138 of these were related to concerns around loss of parkland and associated losses of health benefits, wildlife habitat, and environmental benefits particularly considering HRM's declaration of a climate crisis; 44 expressed interest in placing the school in a different location while 43 were in favor of the Park West School Park site. Traffic and road safety concerns were

¹ Participants could cite multiple reasons.

cited by 37 respondents and 27 comments suggested using the existing Park West School building site area as part of a redevelopment, rather than using the adjacent forested parkland for a new separate school.

Fourteen individuals sent comments via email. One was in favor of transferring the lands to the Province for the new school, 10 were opposed and three were seeking additional information. The most common comments were related to concerns over the loss of parkland and lack of engagement from the Province regarding the other potential school sites.

The survey provides insight into how the respondents felt about the proposed school location and transfer of municipal land to the Province. The results of the engagement are publicly available on HRM's website. Since the engagement was undertaken jointly with the Province, the results were available to the Province upon the survey conclusion.

On June 16, 2022, the Province confirmed its interest and asked that their request proceed through the *Administrative Order 50, the Disposal of Real Property Administrative Order* process. Should Regional Council decide to further consider the disposal of Park West School Park to the Province, the process would include advanced public notification through a notice published in the newspaper.

Alternative to a sale of the property, discussions about the merits of a long-term lease were also raised as an option by staff, and the Province confirmed in writing on August 2, 2022 that their interest could be accommodated via a purchase or lease arrangement. Under a long-term lease arrangement, the lands and use would remain under legal ownership of the municipality.

Unfortunately, a long term lease on parkland is not recommended under the current iteration of the HRM Charter. The lots which comprise the park were transferred as park dedicated land, the Charter does not strictly permit the lease of such lands. A sale to the Province could contain appropriate reversionary clauses so that the land will be transferred to the Municipality once the site is no longer required for educational purposes.

DISCUSSION

Following receipt of notice of interest from the Province staff commenced the property review pursuant to *Administrative Order 50, the Disposal of Real Property*.

The surplus review recommended that title be retained by the Municipality and leased for school purposes, however the HRM Charter does not support the lease of this dedicated parkland. However, a reversionary interest registered on the title of the lands would secure HRM's long term ownership of the lands if sold to the Province for school purposes.

The review comments suggest site design and integration into the existing community with a strong focus on 'green' practices is necessary to mitigate conflicts with the abutting neighbourhoods and the loss of tree canopy/forest habitat. Vegetative buffers should be established from abutting neighbourhoods.

The site shows strong merit as a school site given its integration and proximity to existing residential neighbourhoods and access to major roadways.

Conveyance versus Lease

A conveyance of the lands to the Province would result in loss of ownership of approximately 5 acres within a densely populated area of the urban core. With a view to long term needs of the municipality (viewed through a 50+ year lens), a lease would ensure municipal ownership, control and use of the site when the school is no longer required at the site. The current framework of the HRM Charter does not specifically allow for lease of this parkland. Ensuring a reversionary interest of the Subject Lands back to the Municipality would meet the goal of long-term ownership of this site.

Recommendation

The recommendation to dispose the subject lands and include a reversionary interest in the agreement acknowledges the long-term strategic importance of large multi acre sites in highly densified communities.

FINANCIAL IMPLICATIONS

There are currently no financial implications.

COMMUNITY ENGAGEMENT

Community engagement regarding the potential sale or lease of the subject site ran between May 31, 2021 and June 21, 2021.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Halifax Regional Council could:

1. Direct the Chief Administrative Officer to inform the Province of Nova Scotia that Park West School Park is not surplus to municipal requirements.
2. Request the Province provide amendments to Section 283(14) of the HRM Charter to allow for long term leasing of park dedicated land, then authorize the Chief Administrative Officer to negotiate and execute a long-term lease over the Subject Lands with the Province of Nova Scotia for the construction of a school and use for educational purposes, and otherwise on terms and conditions satisfactory to the Chief Administrative Officer.

ATTACHMENTS

Attachment A – Surplus Property
Attachment B - Park West School Park Map

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

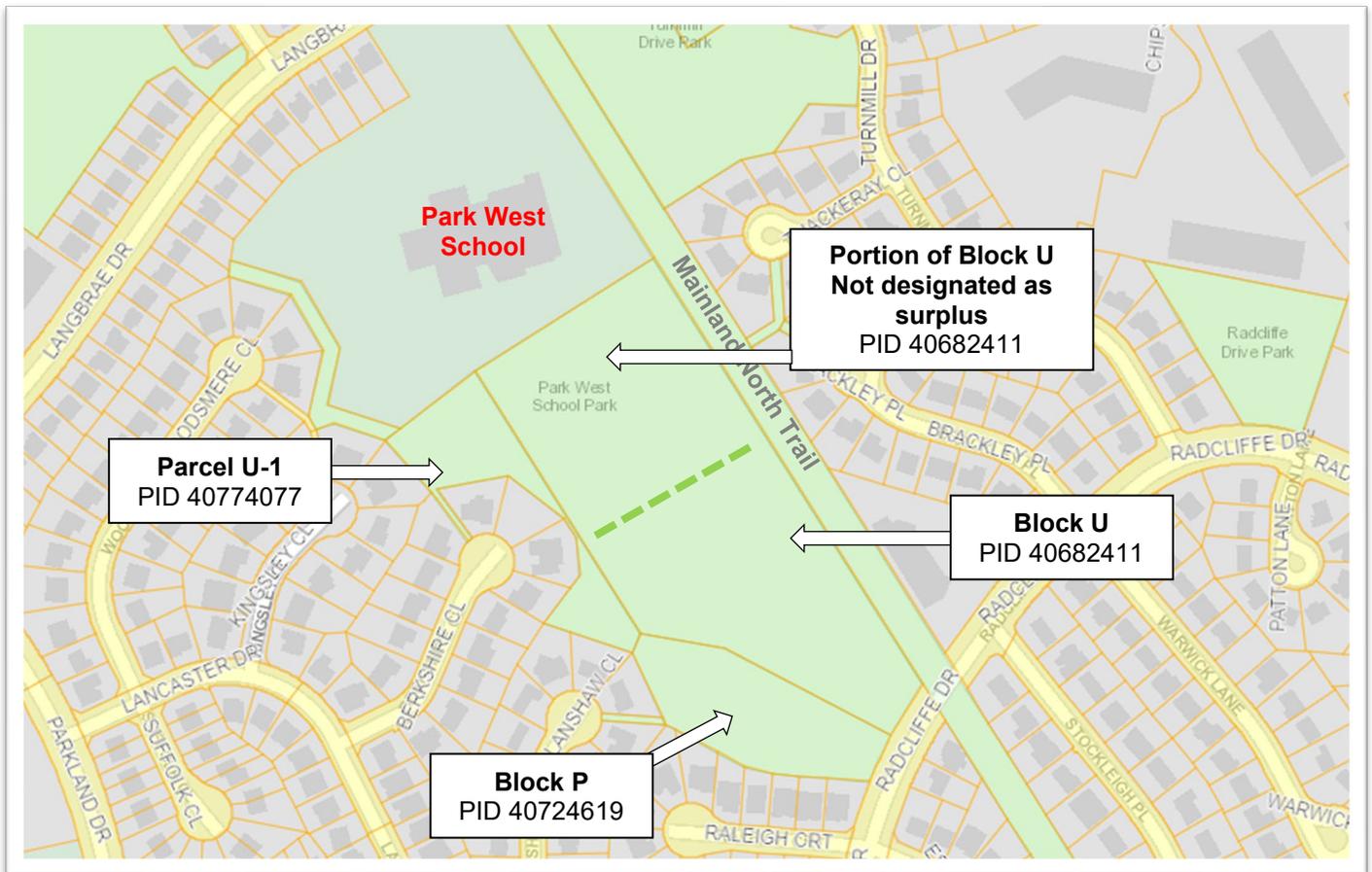
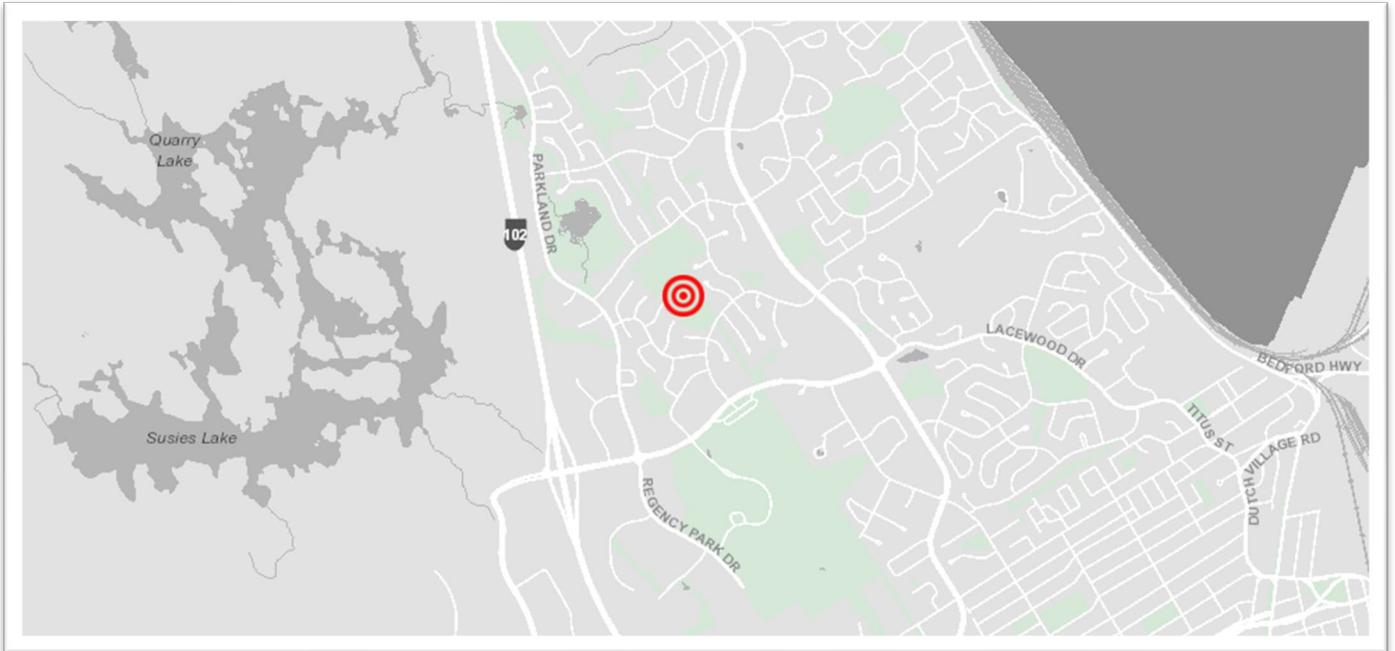
Report Prepared by: Mike Cowper, Team Lead, Acquisitions and Disposals
Michael Wile, Manager, Acquisitions, Disposal and Industrial Lands

Park West School Park, Halifax - PIDs 40724619, 40774077 & 40682411 (portion of)

District 12 - Councillor Iona Stoddard

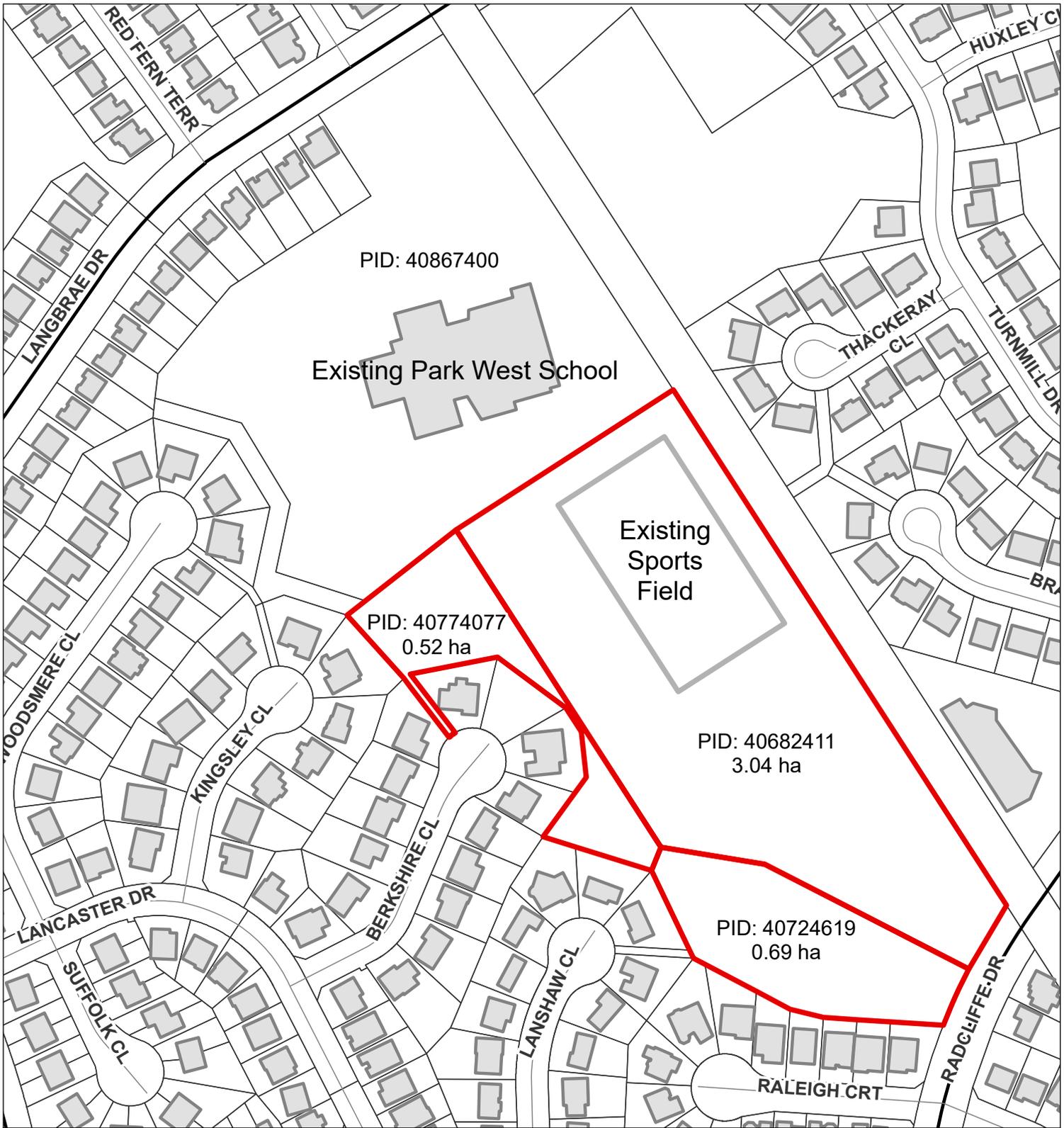
Current Use: Open Space Land

Intergovernmental



Park West School Park, Halifax - PIDs 40724619, 40774077 & (portion of) 40682411

Date Request Received	July 27, 2022	Real Estate Staff	Mike Cowper
Surplus Category <small>(proposed)</small>	Intergovernmental	District / Councillor	12 - Councillor Iona Stoddard
Current Asset Use	Open Space Land	Current Land Area <small>(Parent)</small>	±459,472 sq. ft. / ±10.5 acres
Building Area	N/A	Land Area for Disposal <small>(proposed)</small>	±435,600 sq. ft. / ±10 acres
Building Condition	N/A		
Interim Management	Parks & Recreation	Operating Costs	NA
Land Use Bylaw	Halifax Mainland	PVSC Assessment	\$117,700 2022 Residential Exempt & \$351,500 2022 Resource Exempt
Zone <small>(hyperlink)</small>	K	Deed on File	Yes (for all 3 parcels)
Environmental Risk	<p><i>Vacant Forested Lot</i></p> <p>Note: Prospective purchasers are urged to conduct their own due diligence.</p>		
Background	<p>The Province has expressed an urgent desire to build a new school in Clayton Park on the site of Park West School Park, which is comprised of the three captioned PIDs. Site plans have not been shared, however it is understood that the existing sports field located on PID 40682411 (outlined in green) will not be impacted by the location new school/parking lot/etc.</p> <p>P&R have undertaken public consultation on the matter. Surveys conducted during May-June 2021 show that a significant percentage of respondents do not support the transfer of parkland to the Province for a new public school.</p> <p>Given the survey results the Province reinvestigated the potential sites and determined that this site will best suit the students and communities it is designed to serve.</p>		



PARK WEST SCHOOL PARK

 Properties of Interest

HALIFAX

**Parks & Recreation
Policy & Planning**

