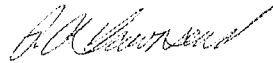


**Harbour East Community Council  
December 8, 2011**

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:**



Phillip Townsend Director, Planning & Infrastructure

**DATE:** November 14, 2011

**SUBJECT:** "Non-Compliant" HRM-Owned Parking Lot NW of Park Avenue

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**INFORMATION REPORT**

**ORIGIN**

July 7<sup>th</sup> 2011, Motion of Harbour East Community Council requesting "a staff report on the "non-compliant" HRM-owned parking lot north west of Park Avenue.

**BACKGROUND**

In July of 2011, Harbour East Community Council approved the Dartmouth Common Master Plan as a guide and framework for the future management and development of the Dartmouth Common. Previous to the Master Plan, there was no consolidated municipal strategy to address the management and programming of the Common. This has contributed to fragmented decision-making and a lack of vision as to how the Common should be managed and how the Municipality should fulfil its' role as public trustee for the lands. Although provincial legislation to protect the Common as open space has been in place since 1986, its' application has not been consistent. The HRM-owned parking lot NW of Park Avenue on Dartmouth Common lands has been questioned by Harbour East Community Council as a non-compliant use of Common lands and a staff report has been requested.

## **DISCUSSION**

The Dartmouth Common is an area of HRM-owned land approximately 100 acres in size spanning from Victoria Road to Park Avenue and including lands just south of the Windmill Wyse Road intersection. There are three lots (PID #00109298, PID #00109280, and PID #40506867) north-east of Geary Street and north-west of Park Avenue which are also part of the Dartmouth Common. The focus of this report is the parking lot NE of Park Avenue consisting of PID #00109298 and PID #00109280<sup>1</sup> (Attachment I).

The subject parking lot is owned and managed by HRM as a staff parking lot. Parking spots are rented on a monthly basis and no public parking is permitted at present.<sup>2</sup> The subject lot as well as the HRM-owned parking lot south-east of Park Ave. and north west of Church Street have been used for staff parking for an extended period of time, after the City of Dartmouth assembled the (former commercial) lands in the 1970's and 80's.

On October 21<sup>st</sup> 2008, Regional Council approved Tender No.08-335 for the paving of the (formerly gravelled) two parcels of land NW of Park Avenue and the parcel SE of Park Avenue.<sup>3</sup> The purpose of the work was to improve parking quality and to lower costs associated with snow-plowing and general maintenance. The lot improvements included paving, installation of security gates, and the addition of concrete block barriers.

Harbour East Community Council has raised the question as to whether the subject parking lot is non-compliant under the Dartmouth Common legislation and HRM Land-Use By-Law.

There are two sets of "rules" governing the use and development of Common lands. This includes the Dartmouth Common legislation under the Halifax Regional Municipality Charter and Municipal planning policy and zoning regulations. The Dartmouth Common Master Plan which was adopted by Council in 2011 provides decision-making guidance with respect to the long-term management, programming and development of Common lands for public use.

### **Dartmouth Common Legislation:**

In 1788, 150 acres of land was granted to the people of Dartmouth for public use. In the early 1960's, stewardship and management of the Common for public benefit was transferred to the City of Dartmouth. The Dartmouth Common Act was not adopted until 1986 when public pressure escalated and it was recognized that more protective measures were necessary.

The following provisions are important with respect to the intent under the legislation:

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<sup>1</sup> PID #40506867 is used for the existing Halifax Water Commission pumping station and a Metro Transit Park and Ride lot

<sup>2</sup> The parking lot is self-funded by direct revenues produced.

<sup>3</sup> The SE lot is not Common land and is not addressed in this report.

*“The Municipality may not sell, lease, license or otherwise alienate the Dartmouth Common”, and*

*“No person shall build on the Dartmouth Common”*

By specifying that building is not permitted, the legislation is clear in its intent to protect the Common as public open space. In May 2011, amendments to the legislation were passed by the Province which enables HRM to develop Common land for outdoor recreation purposes including sports-fields and supporting infrastructure. This recognises that the public values Common land for a variety of open space uses, including recreation and natural green space.

The new legislation also establishes more clarity as to what can be developed as-of-right, what needs Cabinet approval, and what needs legislative amendment. For example, the legislation now clarifies that new parking lots and expansions to existing lots require cabinet approval. This responds to community concerns with respect to the use of Common lands for parking.

The use of Common land for parking has been a contentious issue in the community. Following the demolition of the former Dartmouth Heritage Museum in 2007, HRM made the decision to make improvements to the site for parking rather than turning the land back into green-space. This particular decision was made with the understanding that the parking would be a benefit to park users as it is restricted to short-term parking for visitors and users of the Dartmouth Common. This raised some concern in the community as to whether parking was an appropriate use of Common land. These concerns were raised again when the Dartmouth Common Master Plan was being developed in 2009 in response to the paving of the Park Avenue lot.

In the case of the Park Avenue parking lot, staff made the decision to proceed with the improvements to the lot with the understanding that these enhancements were reasonable based on the long-standing use of the site for parking.

**Municipal Planning Strategy and Land-Use By-Law:**

The parking lot lands are also subject to the provisions under the Downtown Dartmouth Secondary Planning Strategy and Land Use By-Law.<sup>4</sup> The two land parcels making up the subject lot are zoned “Park & Open Space” which reserves public open space lands for passive and active recreational use.<sup>5</sup> Toward this objective, the park and open space zone only permits public parks, conservation lands, play grounds, playing fields, trails, interpretive centres and accessory uses such as washrooms. Parking as a primary use is not permitted. The lot is also identified under Municipal planning policy as an important trail connection for the Dartmouth waterfront multi-use trail network.

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<sup>4</sup> The Dartmouth Common Legislation takes precedence over municipal zoning requirements.

<sup>5</sup> The Park and Open Space Zone has been in place since 2000 when the Downtown Dartmouth Secondary Plan was adopted. Prior to 2000 the land was zoned commercial.

**Conclusion:**

The subject parking lot is non-compliant under both the Dartmouth Common legislation and the MPS and LUB for Downtown Dartmouth.

With respect to the legislation, it can be concluded that the parking use and the exclusive renting of parking spaces and security placed on the lot is an alienation of Common land from the public. There may be a perception within the community that HRM's investment in the lot through the paving and improved parking infrastructure reinforces it as a permanent use. However, from a municipal operational perspective, the lot is viewed as an interim use which supports the economics of the downtown.

With respect to the Downtown Dartmouth Secondary Plan and LUB, parking as a primary use is not permitted under the park and open space zone, making the current use non-conforming. The purpose of the park and open space zone is to provide active and passive recreation for the community. Currently, there are no recreation opportunities on the site; however, the Dartmouth Common Master Plan recommends that the parking lot be converted to parkland with linkages to a multi-use trail and greenway along the waterfront.

**Options:**

Staff understand that the content of this report is being put forward to Council for information only. However, should Council decide to move toward a future solution for reprogramming the parking lot land there are various options that could be considered.

1. Remove Parking and Develop Site for Open Space Use:

In accordance with the park and open space zone requirements, the lot could be redesigned and programmed for passive and/or active open space use. The Dartmouth Common Master Plan and MPS outline the communities desire to have the site used as open space with connections to the Dartmouth waterfront trail. Council would also have the option of maintaining a small percentage of parking on the site to support public use of the park and waterfront trail.

2. Continue Parking and Plan for Longer-Term Open Space Use:

As a longer-term planning measure, Council could adopt a schedule and strategy for the longer-term redevelopment of the site as park-land. Phasing for re-development of the lot could be aligned with the future development of adjacent lands.

As further development of Downtown lands to the immediate south of the lot occur, new parking supply could be added and the subject lot can be properly planned and programmed. This option would presumably take several years to deliver depending on when lands to the south might be developed.

3. Establish a New Land-Use Zone for Common Lands:

In conjunction with the two options above, Council could also establish a new land-use zone for Common lands to better recognize its' protected status. The key benefits would be heightened awareness of the special nature of Common lands and the ability to adopt site-specific provisions such as design standards or the percentage of land that could be developed for recreational infrastructure vs. percentage to be preserved as natural green-space. A "Common" zone would also better identify (or flag) Common lands and their special status under HRM's GIS system. This approach would require amendments to the Downtown Dartmouth Secondary Planning Strategy and LUB and the Dartmouth MPS and LUB.

Finally, in keeping with the spirit of the Dartmouth Common Master Plan and the public's interest in the future of the Dartmouth Common, Council could also engage the community to determine a detailed design concept for any future recreational use of the land.

**BUDGET IMPLICATIONS**

There are no immediate budget implications associated with this report. The information in the report was provided to give Council clarity with respect to the non-compliant status of the subject parking lot. However, should Council give future consideration to any of the options outlined in the report, there would be financial impacts. Under Council's direction, these impacts would be outlined and brought forward for future discussion.

**FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

**COMMUNITY ENGAGEMENT**

Community engagement was not required or sought through the capital improvement process for the paving of the lot. Council has the option of requiring public engagement for the future development of Common land. This could be in the form of information, consultation or joint decision-making (by way of an Advisory Committee), depending on the nature of the development. This would be in line with the intent under the Dartmouth Common Master Plan and the Dartmouth Common legislation.

**ATTACHMENTS**

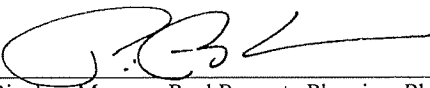
Attachment I: Dartmouth Common – Parking Lot Location

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Holly Richardson Coordinator Real Property Policy, Planning & Infrastructure 490-6889

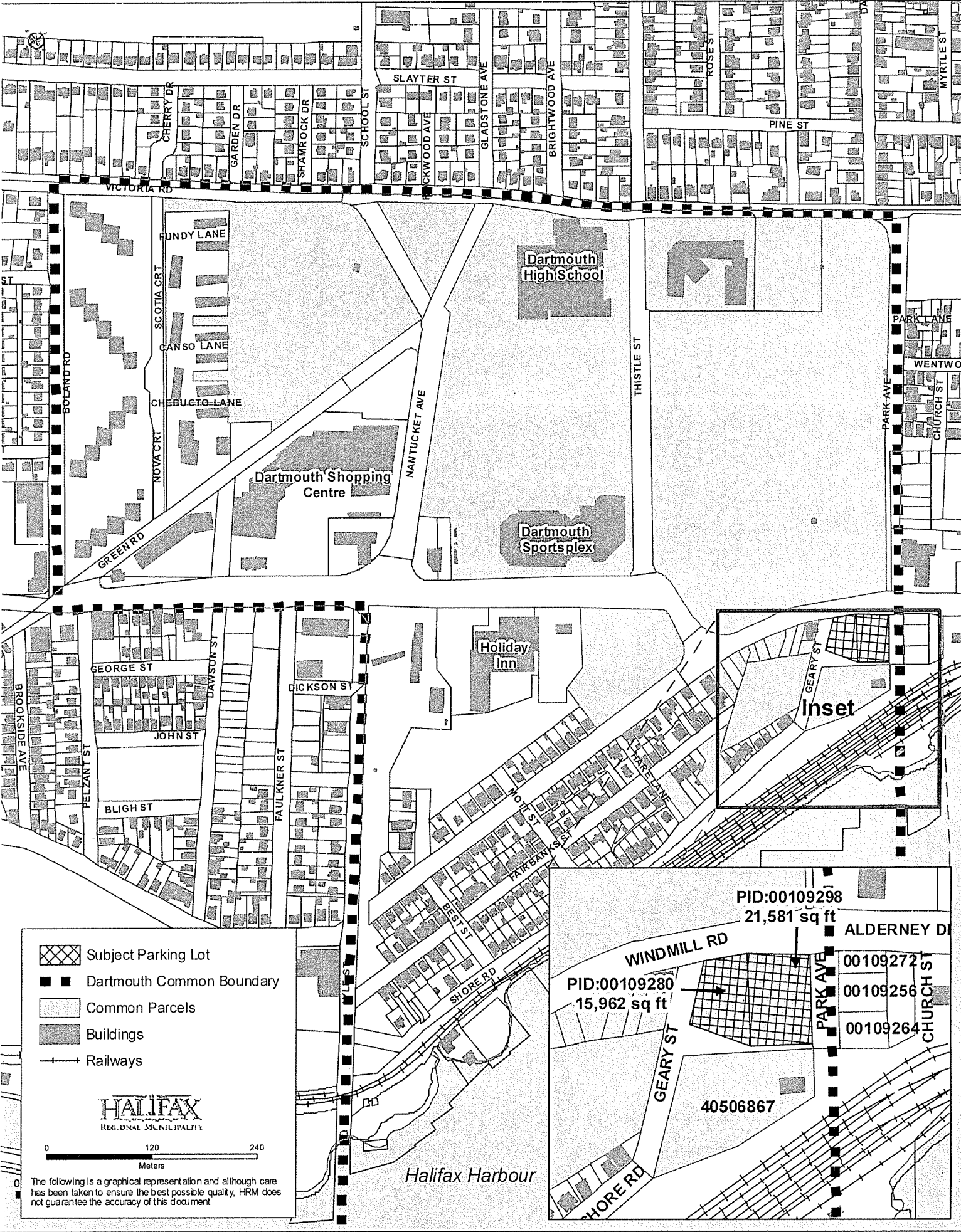
Report Approved by:






  
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Peter Bigelow Manager Real Property Planning, Planning & Infrastructure 490-6047

Report Approved by:

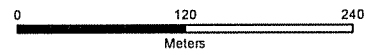
  
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Peter Stickings, Manager Real Estate, Planning & Infrastructure 490-7129

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-  Subject Parking Lot
-  Dartmouth Common Boundary
-  Common Parcels
-  Buildings
-  Railways

**HALIFAX**  
REGIONAL MUNICIPALITY



The following is a graphical representation and although care has been taken to ensure the best possible quality, HRM does not guarantee the accuracy of this document.

PID:00109298  
21,581 sq ft

PID:00109280  
15,962 sq ft

40506867

ALDERNEY DR

001092721

001092566

001092644

CHURCH ST

**Inset**

Halifax Harbour