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Erin Stubblefield / H-P staff

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By **KATE GENELLIE - H-P Staff Writer**

BENTON HARBOR - A new dialysis center is being built in Benton Harbor on what should have been parkland.

Construction crews are already laying the foundation at 338 Eighth St., but a Michigan Department of Natural

Resources official confirmed Tuesday the property is a mitigation parcel meant for park use.

The land was among several parcels designated as public space for mitigation of a piece of Jean Klock Park along Grand Boulevard, which was converted for residential development in 2004. The DNR did not know about the sale of the Harbor Town parcel, said Steve DeBrabander, the DNR manager of grants management. The DNR contacted the city about the problem last week. The construction site's fence runs along the block's sidewalk, in front of a sign on the plot that says, "City of Benton Harbor open public space." The plot, about the size of a city block, was supposed to be designated as public park land in perpetuity.

"Frankly, it's very frustrating," DeBrabander said.

Emergency Manager Joseph Harris said Tuesday someone failed to record the property as a mitigation parcel and so that fact didn't come up in a title search.

The title company isn't at fault because "there wasn't anything there to miss," Harris said. But Harris said he doesn't know whose responsibility it was to record the mitigation designation - the state or the city administration at the time the parcel was designated.

"I don't know who dropped the ball," Harris said.

The parcel, called the Harbor Town parcel because it's near the Harbor Town development, was considered to be in a good location because it would be near a residential development, according to minutes from a Michigan Natural Resources Trust Fund Board meeting.

The city will have to find an acceptable replacement, Harris said.

Liberty Dialysis is working with two other organizations to open the \$1.8 million outpatient hemodialysis treatment center. A spokeswoman for Liberty Dialysis said the company deferred to the city on the property question.

The city will have to replace the property with one of equal or greater market and recreational value, DeBrabander said.

"We need to get this corrected," he said.

DNR staff will meet with city officials to make sure the city knows which properties are mitigation parcels, DeBrabander said. The DNR hasn't given the city a deadline to find a replacement property, but DeBrabander said the DNR would make sure the city makes progress. Municipalities must follow a process to sell mitigation parcels, and the city's actions in this case violated the city's agreement between the DNR, DeBrabander said.

The city should have gotten DNR approval beforehand, but can remedy the situation by finding land to replace the property, DeBrabander said. The replacement land has to be upland and developable, and its replacement as mitigation land also needs to be approved by the DNR.

The DNR has issued several grants to Benton Harbor. Each time a grant is issued, a project area is designated, DeBrabander said. That project area is supposed to be committed to public recreation in perpetuity.

The Harbor Town parcel was chosen in 2005 as replacement park land in exchange for about 4 acres of Jean Klock Park land along Grand Boulevard.

But the property was an empty lot in June when officials from Liberty Dialysis, Lakeland HealthCare and Lake Michigan Nephrology broke ground on the dialysis center.

DeBrabander said the DNR will have to look into whether the city should have been actively developing the parcel for park use.

If it should have been developing the park, it will have to develop the new plot, DeBrabander said.

Harris said he's been told the city can't substitute a park that already exists, but will have to substitute vacant land and turn it into a park.

There are incentives for the city to follow the DNR's rules. If the city were to turn around and sell this new mitigation parcel, the DNR could make the city ineligible for future grants, DeBrabander said.

If the DNR's regulations were to be blatantly disregarded, the DNR could take legal action against the city, DeBrabander said, adding that he hoped to get compliance from the city long before that.

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http://www.heraldpalladium.com/news/local/dialysis-land-deal-bungled/article_e6b0e37c-183f-54fd-84c5-74f2e5dcc035.html