

May 8, 2016

Submission to the Law Amendments Committee
Province of Nova Scotia

Re: Amendments to Bill 177

We, Park to Park Community Association, are writing to request that the Province amend Bill 177.... An Act to Amend the Municipal Government Act and the Charter of the Halifax Regional Municipality.

We make this request in order to improve the integrity and accountability of the public process with regard to planning and development. The disappointing decision concerning Wellington Street (see attached document) raised awareness among many neighbourhoods in the HRM who were and are facing similar situations where MPS amendments were introduced without appropriate justification. As such we would request a change to the legislation to require a 2/3 vote of Council for the approval of important planning documents, specifically MPS amendments.

We understand that while the Charter was changed (s.20 (1A)) to permit Council to make policies requiring 2/3 majorities, (i.e. Rescind motions) this ability does not override the express provisions in s220(8) providing for a simple majority on matters pertaining to the adoption of planning documents. This section reads as follows: "The Council shall adopt planning documents at second reading, by majority vote of the maximum number of members that may be elected to the Council."

In questioning the role of Municipal Affairs in the oversight of planning strategies and land use bylaw decisions we were advised that this oversight is limited to reviewing amendments to see if Ministerial approval is required as per section 223(3) elements of the HRM charter. They are: if the amendment affects a provincial interest; is not reasonably consistent with a statement of provincial interest; conflicts with either the provincial subdivision regulations; or conflicts with the law. If none of these conditions are present, the Director signs off on their review of the amendments and returns them to HRM.

Since the Provincial Government has no oversight or decision-making role in municipal land uses outside of the above noted authority and as the Municipality is the order of Government accountable to the electorate for these planning decisions we believe that the current legislation requiring a simple majority is inappropriate and we would ask that it be changed to introduce

more accountability to the public process. If the proposals for change to the MPS to allow site specific amendments truly balance the private/public good a 2/3 vote should be easily achievable.

We thank you for giving this matter serious consideration.
Sincerely,

Patricia Whitman, Chair
Chris Annand, Vice Chair
Park to Park Community Association

Cc: Minister Zack Churchill
Mayor Mike Savage and members of Halifax Regional Council

Att: January 30, 2015 letter to Minister Mark Furey

January 30, 2015

Hon. Mark Furey
Minister of Municipal Affairs
Maritime Centre – 14 North
1505 Barrington Street
Halifax, NS B3J 3K5

Via e-mail

Dear Mr. Minister,

Re: Developers have taken control of our neighbourhoods

We are writing about HRM Case 19326, Dino Capital Ltd.'s application concerning a proposed development on Wellington Street in Halifax. We request that the pro forma sign-off normally associated with amendments to Municipal Development Plans, Municipal Planning Strategies and Land Use By-Laws not receive the automatic ministerial approval in this case without review of the circumstances involved with this development application.

This controversial development of 8 and 10 storeys in a 35' designated height precinct zoned R2A and adjacent to a park has been strongly opposed en route to its ultimate approval by off-peninsula councillors. Through hearings of over 100 residents each, a petition signed by over 1,000 HRM residents from every district in HRM, absolute rejection by the Planning Advisory Committee and unusual rejection by HRM professional planning staff, this amendment application received narrow HRM Council approval (one vote) on January 13, 2015.

The first question that comes to mind is why the Minister of Municipal Affairs is required to review MPS amendments. Exactly what is your role? Presumably since there is no appeal process to the UARB for an MPS amendment, your role, in some way, is a substitute for that process. This is not to imply that you would use the same approach or indeed apply the same standards or have the same powers. We would assume your role is one of oversight in ensuring integrity in the development and planning of MPS amendments and to also ensure that the public process is appropriate.

Surely you are as appalled as we that in trying to build a strong and cohesive HRM we find that MPS decisions are made on completely irrelevant criteria such as that articulated by the former Mayor of Dartmouth, using defeat on an unrelated project to ensure retribution against Halifax Councillors, planners and indeed the public at large. Or that Councillor Matt Whitman found it so important for his followers to know his position on the matter that he had to tweet his support for the development while under a "Council no communication order". Actions like this in a matter of such importance to

a neighbourhood do not even come close to the concept of fairness identified in the HRM Charter as the basis for your decision in the final approval of the amendment proposed by Council.

There are many other comments by Councillors around this decision that further illustrate the inadequacy of the justification and the subsequent vote to approve.

Comments made by Councillors for ignoring the principles of the MPS and good design – ironically formulated in consultation with the public, staff, planners and approved by Councillors include:

COUNCILLORS WHO APPROVED THE MPS AMENDMENT FOR DINO CAPITAL	THEIR COMMENTS
Adams	If Council agreed with every petition we get there would be no convention centre Many developments would not go through if we agreed with those people. <i>[At that rate why is council bothering with a public hearing other than to go through the motions.]</i>
Hendsbee	Out of 46 properties, (on Wellington St.) just 19 are privately owned which means that 27 are owned by corporations. Dino Capital owns 4 of them.....so I see this as one of those corporate streets. The MPS is there to be changed. "This development fitting with the ambiance of the area" the peninsula needs density. <i>[Obviously based on this rationale once a developer has purchased sufficient number of properties on a street, then the planning rules no longer apply because they will be changed to suit the new corporate owner regardless of the community impact. As well, there are over 100 property owners living in two condo buildings on Wellington St. ignored by Mr. Hendsbee]</i>
Hendsbee (on CBC Mainstreet interview)	The MPS is there to be changed and Wellington Street is a corporate street. <i>[There is no such planning principle as a corporate street. The comment seems to suggest that if the developers have largely bought up a street - then the land use bylaw has to change in accordance with the development intentions of the corporate buyers. That certainly doesn't</i>

	<i>provide much room for good planning.]</i>
Rankin	We don't understand HRM by Design guidelines well enough to vote for them. <i>[Rankin understood them well enough to vote for them in the HRM by Design area – so is HRM by Design only understood when convenient.]</i>
MacCluskey	"I would support the peninsula development because of a past planning blunder in Dartmouth". "A couple of years ago this same planning department , in my district put in three buildingsthere was no thought of compatibility, there was no test of sensitivity, there was no thought of the effect on the community" " if I sat here today and said this is wrong how would the people of Dartmouth feel?" <i>[It is a very sorry state of affairs when a councillor who is peeved by a planning decision in their district decides to take it out on a neighbourhood that played no role in what occurred in Dartmouth.]</i>
Karsten	The municipality risks delaying developments if it starts requiring proposed projects to be considered within a neighbourhood context. "I think that's extremely dangerous," he said, adding that council should "do everything conceivably possibly to move development forward." <i>[It is required that councillors have an open mind when taking decisions following a public hearing – the foregoing statement by Councillor Karsten suggests that Councillor Karsten supports all new construction regardless, which certainly brings into question the integrity of the public hearing process at HRM council.]</i>
Mosher	Community Council when moving something to public hearing....we don't have to justify why, we are a quasi-judicial body If council just voted for what staff said we wouldn't need Councillors or Community Council. <i>[Actually there is a requirement to give reasons for approval of a DA because they are a quasi-judicial body.]</i>

<p>Councillors Dalrymple, Walker and Mosher did not speak or comment at the council meeting but voted to support the amendment. Councillors Fisher and Johns were absent from the Public Hearing so could not participate in the Council meeting.</p> <p>Councillors Craig, Mason, Nicoll, Outhit, Watts and Mayor Savage voted to reject the application.</p>	
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And what does “corporate” street mean in the context of the MPS. The street is zoned R2A which is clearly defined in the MPS which is clearly intended to provide significant density but in a low rise style creating enhanced livability.

We would further note that of approximately 50 planning applications currently in process or approved (Table attached), our expert planning staff have only totally rejected 3, Wellington Street being one of them. As Minister you should be cautious about the rationales presented for making a change and where the rationales for the approval vote originated.

It has long been our understanding that MPS amendments, particularly MPS amendments solely designed to effect a spot rezoning, in this case through a spot MPS amendment, spot land use bylaw change and an accompanying DA, require justification, in fact good justification for change. The ubiquitous statement we see on all recent applications provided by developers is that circumstances have changed and the MPS is no longer relevant. We contend that the only thing that has changed on Wellington Street is that this developer purchased several single family dwellings with a plan to make some money and Council acquiesced.

Developers are now doing our planning. MPS amendments obtained for the reasons set out in the above table demonstrate that the process is flawed and that HRM Council planning decisions are moving away from solid planning principles and the best interests of the public and into the hands of developers; not because there is anything wrong with the existing MPS but because there is now complete deference given to where developers see a money-making opportunity. An MPS is typically created through a long and difficult process presumably at the end of which a balance is achieved between the competing interests; something that is totally lost when land use planning is done on an ad hoc basis. We don't want to kill our inner city, our neighbourhoods that Halifax is so justly famous for, in exchange for density ghettos which can result from effectively non-existing planning. The Stantec Report, commissioned by HRM, supports our view that neighbourhood spot rezoning is not necessary to meet HRM's density goals.

We need planning processes with integrity. If Council agrees that the neighbourhood needs change and is in a state of flux as the developer claims, then processes should be initiated to review the whole neighbourhood – not allow site by site rezoning to the detriment of all; or, delay approvals until the Centre Plan is completed. Spot MPS amendments impact and insult the neighbourhood.

As property owners are we not entitled to know that our council has different plans for our neighbourhoods than those set out in the MPS? Because if there is no integrity to the planning process, we need to know so that we understand what the investment rules in our community are. As resident property owners, we, too, have an investment that needs protecting. It is totally unfair if the only planning protection is afforded to speculation decisions by “the so-called” corporate owners.

As Minister you are responsible for the care and health of our communities, developers are not. Developers are about maximizing profits, be it a good or bad decision for the community, usually by building the largest number of small apartments they can on any given property. This type of profit driven development results in one dimensional communities that add nothing to the vibrancy and livability of our neighbourhoods. Are we really prepared to let developers plan our community?

The need for added legislative protection. This approach to development of “*planning principles be damned*” and “*we know best*” and “*why listen to the public*”, “*what’s good for the goose is good for the gander*”, and “*why would we ever refuse a development proposal*” type of thinking as the basis for decision-making coming out of the quasi-judicial role council is required to exercise in such cases, may well be the thin edge of the wedge as noted by Roger Taylor (business columnist, Chronicle Herald, January 19/15 article). The MPS decision resonated in all parts of the municipality as citizens recognized that planning rules are truly ineffective if we have developers essentially controlling our communities. The question being asked is who is really doing the planning in HRM. If it is the developer and not planning staff, then Regional Council should require a 2/3rds vote to ensure a measure of integrity is maintained in the planning process. We would request that you give consideration to legislation to that effect. If the development is indeed a good one, getting the vote should not be a problem. This particular decision was seen as an affront to citizens of HRM and the poor rationales offered for changing the MPS, on an ad hoc basis, raised the question of the need to create a new Halifax Community Council to ensure that this type of approach did not succeed in future.

There is too much credence now given to developer’s self-interest. The problem with decisions of this type is that they undermine public confidence in the process. We hope you, as Minister, are there to protect the public interest and ensure the integrity of the land use system. Property values are important to all citizens. When a developer is allowed to build an inappropriate apartment/condo building in a residential neighbourhood, through spot MPS amendments/ spot rezoning, it takes value from the property owner and puts money in the pocket of the developer. This is a slippery slope

and this approval does set a precedent for this short two block street where similar developments are already being designed.

We believe in and support HRM by Design and the Centre Plan. At the January 28, 2015 HRM Council meeting this week, Council adopted the Engagement Strategy for the Centre Plan. One can only hope that the public is not disillusioned to the point of rejecting participation in the review process.

Mr. Minister, we believe this Wellington Street decision has raised concerns about how we protect the public interest and the integrity of our land use system in our effort to build strong communities using solid planning principles. We ask that you take our concerns seriously and fully review this matter before considering sign off on this MPS amendment. We would gladly meet with you to discuss our concerns.

Sincerely,

(original signed and delivered to Minister's office)

Pat Whitman, Chair
Chris Annand, Treasurer
Park to Park Community Association
1074 Wellington St, Suite 603
Halifax. NS B3H 2Z8