

September 25, 2012

City of Toronto City Clerk's Office
Attention: Merle MacDonald
Administrator, Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West
10th Floor, West Tower
Toronto, ON M5H 2N2

**RE: City of Toronto Draft Zoning By-law Review
Infrastructure Ontario – Comments regarding Draft Zoning By-law for
Hydro One Networks Inc.**

FoTenn Consultants Inc., on behalf of Infrastructure Ontario (IO) and Hydro One Networks Inc. (HONI), has reviewed the recently revised draft City-wide Zoning By-law 1156-2010 in the context of concerns previously submitted by IO relating to hydro corridors. The purpose of our review is to provide comments related to the By-law's approach to hydro electricity infrastructure to assist the City with its By-law review. Note that IO will be providing comments on the Zoning By-law regarding other provincial properties under separate cover.

In general, the objective of our comments is to ensure the By-law's policies do not preclude or hinder the continued operation and construction of electricity transmission and distribution facilities. During the first review process after the draft zoning by-law was initially released (May 29, 2009), IO had submitted multiple letters (dated November 3, 2009, May 21, 2010 and August 17, 2010) to the City of Toronto outlining a number of concerns but did not receive a response to the submitted letters.

On August 27, 2010 the City of Toronto passed Zoning By-law No. 1156-2010, at which point FoTenn Consultants Inc. once more reviewed the by-law to assess whether IO's previously identified concerns were addressed in the final version of the document. This review indicated that our concerns had not been adequately addressed. Consequently, on September 29, 2010, IO appealed specific sections of the zoning by-law. IO was among many appellants of Toronto's Zoning By-law and as a result, the City repealed the document in May of 2011.

After reviewing the new draft Zoning By-law (released June 18, 2012) we are still of the opinion that the zoning by-law is too restrictive in terms of the future development of



electricity transmission and distribution facilities. The following will reiterate our concerns regarding the zoning by-law provisions regulating hydro electricity transmission and distribution infrastructure, as well as a number of site specific provisions.

Hydro Corridor Lands and Facilities

Consistent with IO's previous comment letters, the reason for our concerns stem in part from our opinion that the by-law should be revised to improve consistency with Sections 1.6 and 1.8 of the Provincial Policy Statement (PPS) (2005). With the ever increasing demand for electricity and the importance of flexibility in how power is supplied to the grid it is our opinion that more consideration should be granted to the following sections of the PPS:

- Section 1.6.6.1, which states that "Planning authorities shall plan for and protect corridors and rights-of-way for transportation, transit, and infrastructure facilities to meet current and projected needs".
- Section 1.6.6.2 of the PPS states that "Planning authorities shall not permit development in planned corridors that could preclude or negatively affect the use of the corridor for the purpose(s) for which it was identified.
- Section 1.8.2 of the PPS requiring that "Increased energy supply should be promoted by providing opportunities for energy generation facilities to accommodate current and projected needs, and the use of renewable energy systems and alternative energy systems, where feasible.

In addition, it is our opinion the City of Toronto's Official Plan provides direction for the utilization of hydro corridor lands that is not reflected in the zoning by-law (). The zoning by-law is too restrictive in terms of the future development of electricity transmission and distribution facilities and the new draft by-law does not support the range of secondary uses encouraged on corridor lands by provincial direction and within the Official Plan (Section 4.3, Policy 2, Section 4.4, Policies 1 and 2).

This letter identifies specific chapters of the zoning by-law which reflect many of the concerns raised in our previous letters dated November 3, 2009, May 21, 2010 and August 17, 2010 as well as our appeal letter dated September 29, 2010 as it related to hydro corridor provisions. The specific chapters that are of concern to us are as follows:

1. Page 300, Chapter 800.50 Definitions, Defined Terms

In our September 29, 2010 appeal letter we had requested that the addition of the words "transmission and distribution" to be inserted following the word "steam" in the definition for Public Utility. The purpose of the recommended additional wording was to ensure the



definition captures the range of facilities and operations carried out on corridor lands. We had recommended that the definition read as follows:

“Public Utility – means premises or facilities used for the distribution of gas, steam, transmission and distribution of electricity, or other forms of energy, or the transmission of impulses, signals or messages, or for the collection, distribution, storage or treatment of water or sewage.”

The current draft Zoning By-law includes a new “public utility” definition that reads:

“Public Utility – means premises or facilities used for the distribution of gas, steam, electricity or other forms of energy, or the transmission of impulses, signals or messages, or for the collection, distribution, storage or treatment of water or sewage.”

Although this new definition now makes explicit reference to electricity, it only pertains to its ‘distribution’ and not its ‘transmission.’ *Distribution*, according to the definition found on page 294 of the Draft Zoning By-law, means “the delivery of energy from renewable energy or cogeneration energy, to a distribution network connected to the lot.” The *transmission* of electrical power on the other hand is the bulk transfer of electrical energy from generating power plants to electrical substations located near demand centres. We are concerned that by only recognizing the local wiring between high-voltage substations and customers (i.e. distribution), the Zoning By-law fails to recognize hydro corridor lands as a public utility. In order to recognize hydro corridor lands (in addition to local connections), we request that this definition be amended to read as follow:

“Public Utility – means premises or facilities used for the distribution and transmission of electricity, the distribution of gas, steam, or other forms of energy, the transmission of impulses, signals or messages, or for the collection, distribution, storage or treatment of water or sewage.”

2. Page 25. Chapter 5 – Regulations Applying to all Zones

Previous drafts of the Zoning By-law included electrical transmission and distribution infrastructure (Public Utility) as a permitted use in all zones; however, in the revised draft under review, this use has been removed from the list of uses permitted in all zones. Now, Public Utility is identified as a permitted use within individual zone provisions. For those zones that do allow for Public Utilities, most are permitted *with conditions*. Generally, these conditions state that a hydro related public utility is only permitted if it is an electrical transformer station that is enclosed by walls and complies with the lot coverage, minimum building setback and maximum building height for the zone in which it is located.



We are concerned that this condition is too restrictive both in terms of the type of the structure that is permitted and the provisions restricting its massing and height. As requested in earlier letters, we are recommending that electricity transmission and distribution infrastructure be permitted in all zones. In order to preserve the intent of the Official Plan, this chapter of the By-law (Chapter 5) and permit the development of hydro transmission and distribution infrastructure, the following conditions are proposed to accompany Public Utility as a permitted use:

- “(A) A public utility is permitted in any zone if the service from the utility facility is provided directly to a lot.
- (B) If a public utility facility is located on a lot in a residential zone category, it must comply with all regulations applicable to a principal building on that lot.
- (C) Despite subsections A and B above, utility installations that are subject to the requirements of the *Environmental Assessment Act* are permitted in all zones; the following provisions shall apply to such projects:
 - i. A public utility installation need not comply with the minimum lot area and minimum lot width specified for the zone in which it is located;
 - ii. Hydro transmission and distribution, and telecommunications towers providing service from utility operators may exceed the height limit applicable to the zone, but must be no higher than is necessary to operate effectively and safely.”

The purpose of the proposed wording that permits utility installations in all zones is to ensure electricity transmission and distribution facilities can be developed and expanded to meet existing and future demands. The proposed wording includes reference to meeting the requirements of the *Environmental Assessment Act* which includes processes to ensure compatibility with surrounding land uses. Based on the fact appropriate measures are provided to ensure compatibility, we feel utility projects that are subject to provincial environmental screening should be permitted in all zones.

3. Page 229, Chapter 100.10.20.10 – Utility Zone, Conditions

The previous submissions requested the zoning provisions regulating the use of hydro corridor lands recognize electricity transmission and distribution as the primary permitted use. The way the UT zone is structured, uses that should have secondary priority on corridor lands including, Park, Market Garden, Recreational Use, Public Parking, and Public Works Yard appear to have equal priority on corridor lands. Section 1.6.6.2 of the PPS instructs planning authorities to not permit development on corridor lands that



would limit the use of the corridor for its intended use. In addition, the primacy of transmission of energy is thoroughly addressed in the City of Toronto's Official Plan under Section 4.4 Utility Corridors, Policy 2 which states: "Hydro corridors are used primarily for the transmission of energy. They may also be used for secondary purposes...Secondary uses in hydro corridors will: a) be compatible with the primary use of the corridor..."

In order to improve consistency with the PPS and conformity with the City's Official Plan it is recommended that the zoning provisions of the UT zone identify provincial hydro corridor lands having the primary land use of transmission and distribution of electricity, and all other lands uses will be secondary to the primary use. It is recommended that the following caveat be added to Chapter 100.20.20.100 Permitted Uses to clarify this primacy:

"(7) In the UT zone, the provincial hydro corridor land's primary use will be for transmission and distribution of electricity infrastructure. The development of all secondary uses will be subject to the Infrastructure Ontario and Hydro One Networks Inc. approval. This clause applies to all uses within the UT zone."

The primary concern for IO is to ensure that the UT Zone clearly identifies the primacy of use for electrical transmission facilities, while accommodating secondary land uses that are compatible with the primacy of use and with adjacent land uses.

4. Page 229, Chapter 100.10.20.100 – Utility Zone, Conditions

HONI/IO encourages secondary land uses on corridor lands under the Provincial Secondary Land Use Program. The purpose of the program is to maximize the use of corridor lands with compatible uses in order to assist in serving the needs of surrounding communities without jeopardizing the primary function of the lands as a utility corridor. The Official Plan for the City of Toronto includes similar direction under Section 4.4 encouraging the use of hydro corridor lands for secondary uses including parking lots.

HONI/IO frequently receives requests to permit off-site parking facilities for adjacent land uses. The 2009 draft zoning by-law included provisions to permit off-site required parking on corridor lands. In our April 2010 letter we requested that these provisions be modified to permit 'additional parking' as well as 'required parking'. However, the new draft by-law no longer includes any provisions related to off-site parking facilities. For conformity with the Official Plan, we hereby request provisions to permit all forms of off-site parking, including "additional" parking on corridor lands in order to ensure existing parking facilities comply with the zoning by-law and to allow for the future development of parking facilities where appropriate. The simplest way to accommodate



this use would be to add “Parking” as a conditional use in section 100.10.20.20. This suggestion would be required to meet condition seven (7) recommended above.

5. Zoning By-law Schedules

Through a review of the zoning schedules, existing situations were identified where a hydro corridor traverses a natural feature, yet the UT zoning does not cross the feature. For example, a hydro corridor may be zoned Open Space Natural Area or Open Space Recreation where it crosses a natural area.

In order to ensure the supply of energy, a provincial interest, continues in an efficient manner and to ensure that the future expansion of transmission infrastructure can be accommodated, we request that all hydro corridor lands are zoned within the Utility and Transportation (UT) zone. To accommodate this, we request the following draft Zoning Index Maps be amended:

Map A: 4, 27, 28, 32, 38, 45, 50, 51, 59, 60, 66

Map B: 87*, 97, 107, 108*

Map C: 127, 128, 129, 159, 171*

Map D: 183*, 195*, 196*, 201, 204, 213, 214

Map E: 252, 253, 254*, 258, 259, 260, 263* 272, 284

Map G: 370, 371, 372, 373, 374, 386, 387, 388, 389, 404

Map I: 465*, 466*, 467, 469, 470, 474*

Map J: 566*

Map K: 572, 573, 574, 576, 577*, 578*, 585, 592, 598*, 599, 600, 601, 613, 614

Map L: 641*

Map M: 684, 687

Map N: 738, 747, 748, 750, 757*, 762*, 763*, 764*

Map O: 774, 775, 782, 790, 791, 797, 798

Map P: 822, 823, 824, 825, 826, 827, 828, 846, 853, 854, 855, 660*, 867* 868, 869

Review of the schedules also indicates that there are lands not intended to be zoned under the harmonized zoning by-law. During our attendance at the City’s open house it was brought to our attention that there are areas that are too complicated to include in the harmonization. Our main concern with this approach is the lack of consistent mapping of Hydro Corridors for the whole city. The most straightforward method to deal with this concern is to include all Corridor lands on the updated mappings as UT zoned lands. The maps above marked with an asterisk fall into this category. As we review the mapping further, we may bring additional Schedule concerns to your attention.



Concluding Comments

We would request that this letter be included as part of the record of submission on the Zoning By-law Review and that we be notified of any decisions regarding this matter. We thank you for considering our comments and recommendations on this important initiative and we look forward to working with you to resolve the above noted concerns. Please contact the undersigned to discuss this matter further. As further discussion occurs additional comments may be forthcoming as they relate to hydro corridors

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Yours Truly,



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