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June 9, 2014

Our File No. 118366

BY EMAIL

Members of Regional Council
Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario L3Y 6Z1

**Re: Committee of the Whole Meeting – June 12, 2014
Report No. 1 of the Commissioner of Transportation and Community
Planning Re: City of Markham Official Plan, Part 1**

**Our Client: Enbridge Gas Distribution Inc.
101 Honda Boulevard, City of Markham**

As you are aware, we are the solicitors for Enbridge Gas Distribution Inc. ("Enbridge") in respect of their lands located at 101 Honda Boulevard, in the City of Markham (the "Property").

We understand that Regional Council deferred consideration of the 2013 City of Markham Official Plan, Part 1 (the "Draft OP") to the June 12, 2014 Committee of the Whole meeting. We are writing at this time to underscore our client's concerns with the Draft OP and to advise the Region, in particular, that Enbridge believes that the approval of Map 10 – Transportation, constitutes a significant alteration in terms of its understanding of the planning and vision of the Business Park.

In 2011, Enbridge made a substantial investment in the City of Markham (the "City") and the Region of York (the "Region") and developed a 9,366.32 m² state of the art professional development training facility on Honda Boulevard in the City's 404 North Business Park. In Enbridge's view, the proposed alignment of the east/west Major Collector Road and Highway 404 flyover (as shown on Map 10 of the Draft OP), and the proposed re-designation of lands in the immediate vicinity of the Property from Business Park to General Employment constitute a significant challenge to the operation of this important facility. Had our client known in 2011 that the Property would be fronted by an east/west collector road and that the surrounding area would no longer serve as a prestige business park, it would not have made this investment.

The Enbridge Training Facility

As we have advised members of Council previously, the Property contains an exterior training facility which was designed to provide Enbridge staff with exposure to simulated environments consistent with those encountered in the field. This training involves the use of live gas and fire demonstrations so that trainees may learn the necessary skills as required in the field.

Given the nature of the Enbridge's outdoor operation, it sought to purchase a property which had limited exposure to the public. In selecting a site for this training facility, properties which were corner lots or which fronted onto major roadways were deemed inappropriate. Furthermore, as part of the site plan approval process (and at the request of City of Markham staff), Enbridge incorporated specific design elements and landscaping treatments so as to ensure that the training centre was compatible with, and buffered from, the proposed and existing surrounding uses in this area and Honda Boulevard. The proposed location of the mid-block crossing undermines Enbridge's efforts in implementing appropriate screening (and the costs associated with those mitigative elements) and its selection of a site with minimal exposure to the public.

The proposed location and alignment of the mid-block crossing is also contrary to the assurances that Enbridge received by the City and the Region at the time the Property was purchased. In 2011, the Property was subject to By-law 177-96, as amended, which zoned the area (including the Property) Business Corridor Hold and Business Park Hold. The Holding Provision applied to a 4 – metre section of these lands in order to protect for a 27 metre right of way required by the Region if a mid-block crossing of Highway 404 were constructed. In 2011, By-law 2011-67 was enacted by City Council. This by-law removed the Holding Provision specifically to facilitate the development of Enbridge's training facility. At that time, and in order to permit the lifting of the Holding Provision, the Region approved the deletion of the extension of the mid-block crossing east of Honda Boulevard to Woodbine by-pass (see attached). It was in part with its understanding that the mid-block collector had been abandoned by the Region that Enbridge deemed the Property appropriate for the development of its facility and made a considerable investment in Markham.

More importantly, given the deletion of the mid-block crossing, Enbridge was required to convey an easement to the City in the low point of the Property so as to facilitate a stormwater management facility to the benefit of the City. This was provided at the request of the City's engineering staff and a direct result of the removal of the collector road. If Enbridge had understood that there continued to be plans for a mid-block crossing, it would not have conveyed the said easement to the City and would have located the stormwater management facility within the proposed right of way, as is typically required.

Enbridge's Opposition to the Draft OP

We have reviewed the above referenced staff report to be considered at the June 12, 2014 meeting of the Committee of the Whole. The report includes proposed modifications to the Draft OP and recommends approval of the Draft OP, subject to the modifications set out in Attachment 1 to the report.

Enbridge has met with staff from both the Region and the City, in addition to filing the several letters, to explain its concerns with the Draft OP as it relates to the Property. As part of our meetings with staff, our client received confirmation from Region and City that Enbridge would be consulted further in respect of the mid-block crossing alignment and the re-designation of the lands within the immediate vicinity of the Property in an effort to craft a resolution such that the Draft OP could be brought to the Region with the full support of the key landowners within the 404 North Business Park. No such consultation

occurred, nor was our client consulted with respect to further refinements or potential alternatives.

Based on our review of the aforementioned staff report and the proposed modifications, we can confirm that Enbridge continues to object to the approval of the Draft OP. The reasons for this objection are two-fold.

First, the lands immediately north of the Property continue to propose a change from the former Business Park Area to General Employment designation. The introduction of the General Employment designation immediately north of the Property will result in a significantly different land use context from that which exists today. As noted above, Enbridge's state of the art training facility was designed in a manner consistent with, and in anticipation of, adjacent prestige Business Park uses. The proposed redesignation of the surrounding properties undermines the long-term prestige nature of this area which was one of the primary reasons our client decided to locate its facility on the Property. The proposed policy changes (Modification 86) further undermines the current overall policy direction for the 404 North Business Park as expressed in the existing 404 North Secondary Plan.

Second, the proposed modifications to Map 10 – Transportation and associated modification to Appendix D – Cycling Facilities are not acceptable to Enbridge in that they do not address Enbridge's previously stated concerns with respect to the potential for a mid-block crossing, and associated cycling route, adjacent to its facility.

Enbridge does not support the proposed cycling facility given its proximity to the outdoor simulated training facility at the Property and the potential for distraction to cyclists.

We acknowledge the following modifications are proposed to the legend of Map 10:

- Modification 149 – revision to the "Special Transportation Study Area" legend description;
- Modification 150 – notation added to the legend to describe the conceptual nature of the proposed Map 10 alignments, including the proposed mid-block crossing extending east from Highway 404 to Woodbine Avenue ; and
- Modification 154 – addition of asterisk symbol to depict the proposed mid-block crossing extending east from Highway 404 to Woodbine Avenue as a "Special Transportation Study Area".

Notwithstanding these proposed modifications, Enbridge continues to object to the proposed Road Network, as depicted on Map 10 of the Draft OP. The future location and alignment of the mid-block crossing of Highway 404 relies on the outcome of the Region's environmental assessment study. To our knowledge, the Region's environmental study is not considering Enbridge's preferred alignment for a potential mid-block crossing. Moreover, we interpret the amended language proposed for Map 10 to suggest that the construction of a mid-block crossing in this general location is a definitive outcome of the environmental assessment study. This is not acceptable to Enbridge for the reasons outlined above.

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The mid-block crossing alternatives being studied as part of the environmental assessment and as depicted on Map 10 of the Draft OP raises significant operational constraints for Enbridge's facility.

Based on the foregoing, Enbridge requests the following:

- i. that the Committee of the Whole recommend that the lands within the 404 North Business Park area remain designated Business Park Area; and
- ii. that the Committee of the Whole recommend that approval of Map 10 – Transportation be deferred at this time so as to facilitate further discussions with our client and other stakeholders, concerning the appropriate alignment and location of the Mid-Block Crossing of Highway 404 and Major Collector Road between Elgin Mills Road and 19th Avenue.

We trust that the above is of assistance in ensuring that a resolution which recognizes the importance of the Business Park and the need to maintain the integrity of the area and the investment made by Enbridge and other landowners in this area.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello

EPKC/SJL/ab

Encl.

- c. Client
Bruce Macgregor, CAO, York Region
Daniel Kostopoulos, Commissioner of Transportation and Community Planning,
York Region
Karen Whitney, Director of Community Planning, York Region
Duncan MacAskill, Senior Planner, York Region
Jim Baird, Commissioner of Development Services, City of Markham
Stephen Chait, Director Economic Development, City of Markham
Murray Boyce, Senior Policy Coordinator, City of Markham
Development Services Committee, City of Markham

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EXPLANATORY NOTE

BY-LAW NO. 2011-67

A by-law to amend By-law 177-96, as amended

11160 Woodbine Avenue Limited (Rice Group)

LANDS AFFECTED

This by-law amendment applies to lands located within the Highway 404 North Planning District, on the west side of Woodbine Avenue, north of the Cathedral Community and south of 19th Avenue and municipally known as 11160 Woodbine Avenue and 11258 Woodbine Avenue

EXISTING ZONING

The lands subject to this By-law are presently zoned Business Corridor Hold - BP(H) and Business Park Hold BP(H).

PURPOSE

The purpose of this By-law is to remove the Hold Provision appended to the zoning of the subject lands to facilitate the future development of an office, warehouse, testing and training facility.

The Hold Provision applied to a 4 metre section of the subject lands in order to protect for a 27 metre right-of-way required by Region of York if a mid block crossing of Highway 404 were constructed. The Region has since approved the deletion of the extension of the mid-block crossing east of Honda Boulevard to the Woodbine By-pass. Therefore, the Hold Provision within the area outlined in Schedule 'A' on the subject lands is no longer required.

EFFECT OF BY-LAW

The effect of this By-law is to remove the Hold Provision as shown on Schedule 'A' to facilitate the development of an office, warehouse, testing and training facility.



BY-LAW 2011-67

A by-law to amend By-law 177-96, as amended

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

"1. By-law 177-96, as amended, be and the same is hereby further amended as follows:

1.1 By rezoning the lands outlined on Schedule 'A' hereto from:

Business Park Hold [BP (H)] and,
Business Corridor Hold [BC (H)]

to

Business Park [BP] and,
Business Corridor [BC]

2. All other provisions of By-law 177-96, as amended, not inconsistent with the provisions of this by-law shall continue to apply."

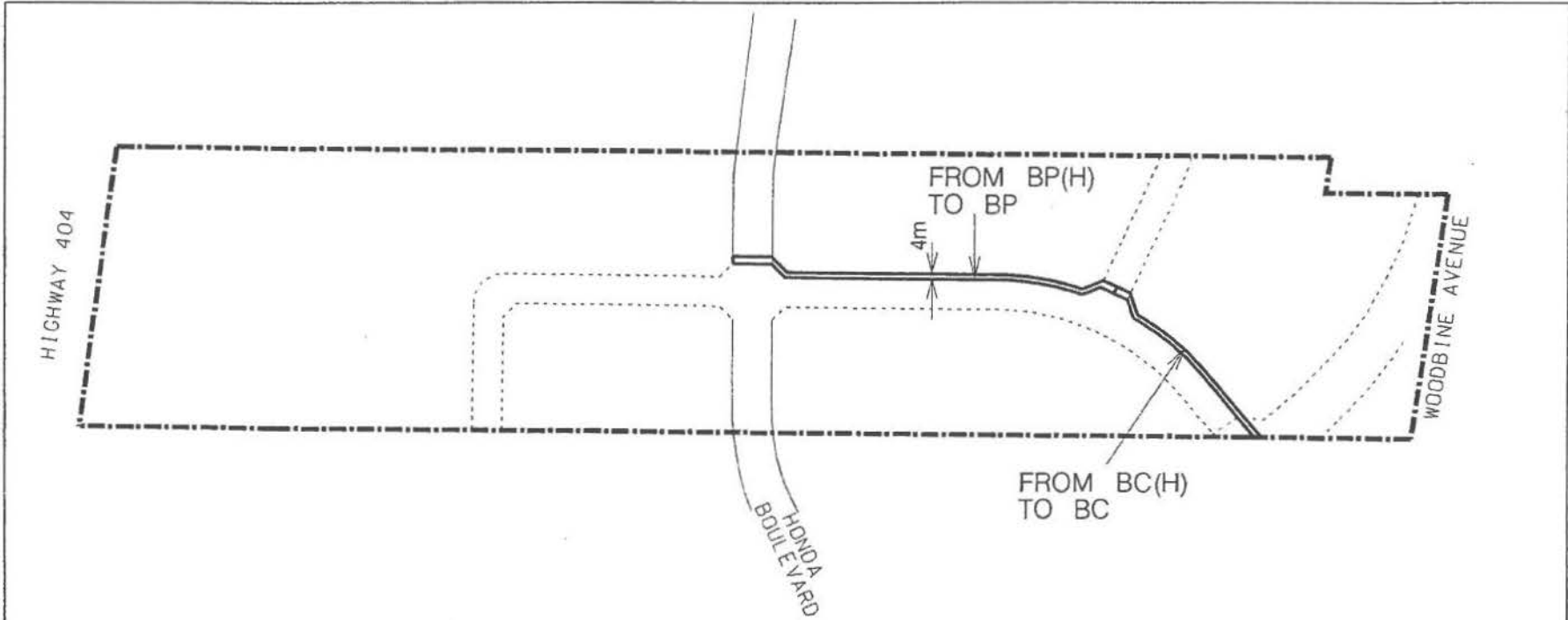
READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
1ST DAY OF MARCH, 2011.

Handwritten signature of Andrew Brouwer in cursive.

ANDREW BROUWER
DEPUTY TOWN CLERK

Handwritten signature of Frank Scarpitti in cursive.

FRANK SCARPITTI
MAYOR



A BY-LAW TO AMEND BY-LAW 177-96

THIS IS SCHEDULE 'A' TO BY-LAW 2011-67
 PASSED THIS 15TH DAY OF MARCH, 2011

Paul Scarpitta MAYOR
Carole Brundage DEPUTY CLERK

----- BOUNDARY OF AREA COVERED BY THIS BY-LAW
 BC BUSSINESS CORRIDOR AREA
 BP BUSINESS PARK AREA
 (H) HOLDING PROVISION

———— ZONE BOUNDARY

NOTE: 1) DIMENSIONS ARE IN METRES
 2) REFERENCE SHOULD BE MADE TO THE ORIGINAL BY-LAW LODGED IN THE OFFICE OF THE CLERK

SCALE 1: NTS