Zoning By-law – Analysis of City responses

*Based on the provided **City staff responses** to the FCA's position letters, the following is an analysis of issues where the City has disagreed with or merely noted the FCA's concerns.*

1. Phased Implementation (Infrastructure vs. Density)

The Issue: The FCA requested a "Phased Implementation" resolution to legally tie density permissions to measurable infrastructure benchmarks (e.g., transit, sewers, schools). The City staff response was: **"Staff do not agree."**

- **Arguments Supporting FCA Position:**
    - **Temporal Mismatch:** Zoning creates immediate *rights* to build density, while infrastructure planning (IMP) is reactive and subject to budget cycles. Without a legal link (like a Holding provision), density will inevitably outpace capacity, leading to service degradation (e.g., overcrowded buses, sewer capacity issues).
    - **Risk Management:** "Phased implementation" protects existing taxpayers from the liability of infrastructure failure by ensuring growth pays for itself in real-time, rather than accruing a deficit of services.
- **City Staff Objections & Counter-Arguments:**
    - **Statutory Roles:** Staff argue that social infrastructure (parks, schools) is enacted through separate Master Plans (Parks & Recreation Facilities Master Plan) and is **"not in scope"** with the Zoning By-law.
    - **OP Conformity:** The Zoning By-law's mandate is to implement the *land use permissions* established by the Official Plan (OP). Delaying these permissions based on operational funding would contradict the OP's direction to accommodate growth.
    - **Existing Mechanisms:** Staff contend that Section 201 ("Adequate Services") has been strengthened to manage stormwater specifically, and the *Infrastructure Master Plan* is the appropriate tool for broader capacity management, not zoning text.
- **Assessment of City Logic:**
    - The City relies on a **bureaucratic separation of powers**: Zoning defines *what* can be built, while Master Plans define *how* it is supported. While legally distinct, this logic fails to address the FCA's practical concern:

the resident experience of the "lag" between density (now) and infrastructure (later). By rejecting "Phased Implementation," the City prioritizes regulatory streamlining and market certainty for developers over service guarantees for residents.

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2. Tree Canopy Protection (Soil Volume vs. Surface Area)

The Issue: The FCA demanded the reinstatement of a **30 cubic metre (30 m^3)** soil *volume* requirement. The City rejected this, sticking to a **30 square metre (30 m^2)** *area* requirement.

- **Arguments Supporting FCA Position:**
  - **Biological Reality:** A tree's root system requires a specific volume of uncompacted soil to support a mature canopy. 30 m^2 of surface area with a shallow depth (e.g., over a garage) creates a "flowerpot effect" where trees inevitably die or remain stunted, failing to provide the canopy coverage needed to mitigate heat islands.
  - **Climate Negligence:** Substituting "area" for "volume" ignores arboricultural science, effectively abandoning the City's 40% tree canopy goal in dense areas for the sake of administrative convenience.
- **City Staff Objections & Counter-Arguments:**
  - **Legal Limitation ("Ultra Vires"):** Staff argue that regulating the **depth** of soil (required to enforce volume) may be **"ultra vires"** (beyond the City's legal authority under the *Planning Act*).
  - **Enforceability:** Staff cite "concerns with respect to enforceability," implying that verifying subsurface soil cell volumes during construction is too difficult or resource-intensive compared to measuring surface area on a site plan.
- **Assessment of City Logic:**
  - The City is using a **legal/administrative shield** to deflect a biological problem. Even if regulating depth is legally complex, the City's alternative (surface area only) does not solve the biological requirement for tree survival. This suggests a prioritization of **ease of enforcement** over the long-term success of the City's own environmental policies.

3. Electric Vehicle (EV) Readiness

The Issue: The FCA requested reverting to the stricter Draft 2 standards (100% EV-ready for mid/high-rise). The City maintained the reduced standards (25% for residential, 15% for office).

- **Arguments Supporting FCA Position:**
    - **Future-Proofing Cost:** It is fiscally irresponsible to build infrastructure today that is obsolete by 2035 (the federal zero-emission mandate). Retrofitting concrete structures later costs 3-4x more than initial installation, passing a massive financial burden onto future condo owners and tenants.
    - **Climate Targets:** Weakening readiness standards imperils the OP's carbon reduction goals by making EV adoption harder and more expensive for urban residents.
- **City Staff Objections & Counter-Arguments:**
    - **Grid & Stakeholder Constraints:** The revisions were made **"in consultation with Hydro Ottawa,"** implying that 100% readiness might strain current grid capacity or transformer requirements for individual buildings.
    - **Monitor and Review:** Staff propose a "wait and see" approach, promising to **monitor EV ownership rates** and review the policy in **2031**, rather than mandating 100% capacity now.
    - **OP Conformity:** Staff state the current provisions align with Official Plan Section 4.1.4.4, implying the OP does not mandate 100% coverage.
- **Assessment of City Logic:**
    - The City's logic is **reactive and deferential to utility constraints** (Hydro Ottawa). By choosing to "monitor and review" in 2031, they are effectively accepting that buildings constructed between 2025-2031 will likely require expensive retrofits later. This contradicts the "Climate Emergency" lens by prioritizing immediate development feasibility over long-term asset resilience.

4. Density Methodology (Hot Spots & Redevelopment Rate)

The Issue: The FCA argued the City's assumption of a uniform 1% annual redevelopment rate is flawed and risks creating "hot spots" that overburden specific neighborhoods. They requested a "Methodology Review" and cumulative impact modeling. The City responded: **"Staff do not agree."**

- **Arguments Supporting FCA Position:**
    - **Uneven Growth:** Real-world development does not happen uniformly; it clusters around "hot spots" (e.g., near transit, high-demand amenities). A city-wide average of 1% conceals localized spikes where density might jump by 10-20% in a short period, crushing local infrastructure.
    - **Blind Spots:** Without modeling these cumulative impacts, the City is essentially "flying blind," zoning for maximum capacity without understanding the localized consequences of that capacity being realized quickly.
- **City Staff Objections & Counter-Arguments:**
    - **Capacity vs. Uptake:** Staff view zoning as setting the *maximum theoretical capacity* (the container size), not a prediction of *uptake speed*. They likely rely on market forces to distribute growth and view "hot spot" modeling as speculative or unnecessary given city-wide targets.
    - **Existing Suffixes:** Staff note that existing height suffixes and Secondary Plans already limit density in sensitive areas, acting as a check on uncontrolled growth.
- **Assessment of City Logic:**
    - The City's flat denial ("Staff do not agree") suggests a rigid adherence to their existing growth models. They appear to reject the premise that zoning should be predictive/protective against *rapid* change, viewing it instead as purely permissive. This ignores the FCA's valid concern that **averages lie**—a 1% city-wide average is cold comfort to a neighbourhood experiencing a 20% surge in density.

5. Building Heights (11 Metres / 3 Storeys)

The Issue: The City increased maximum height in N1/N2 zones to 11 metres (3 storeys) citywide. The FCA noted this remains "contentious" as height does not equal density.

- **Arguments Supporting FCA Position:**
    - **Massing vs. Units:** An 11-metre single-family "luxury box" adds no density but significantly impacts street character and solar access. Height permissions should be tied to *performance* (e.g., number of units) rather than granted as a blanket right.
- **City Staff Objections & Counter-Arguments:**
    - **OP Conformity:** The Official Plan generally contemplates **3 storeys** in Neighbourhood designations. 11 metres standardizes this permission.
    - **Design Flexibility:** Staff argue the height allows for **"greater flexibility for large units,"** promoting family-sized housing within multi-unit dwellings (e.g., high ceilings, pitched roofs) that 8.5 metres would prohibit.
    - **Exceptions Maintained:** Staff note this is not universal; existing height suffixes (e.g., in Heritage Conservation Districts or Secondary Plans) are generally retained.
- **Assessment of City Logic:**
    - The City makes a strong technical argument here: standardizing to 11 metres simplifies the code and removes artificial barriers to modern building standards (insulation, ceiling heights). While the FCA worries about "luxury boxes," the City prioritizes the *potential* for diverse housing forms (like stacked towns) that require the vertical space.