



## Planning and Development Committee Report

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**To:** To the Mayor and Members of the Planning and Development Committee  
**From:** Amanda Wyszynski, Planner  
**Date:** October 5<sup>th</sup>, 2021  
**Subject:** RPT-21-220, Zoning By-Law Amendment Application ZBA32/21/AW  
178 Newport Road, geographic Township of Brantford  
**Purpose:** **For Approval.**

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### Recommendation

That Application ZBA32/21/AW from Shermandale Farms Limited, Owner of lands described as TRACT BURTCH PT LOTS A,B,C,D RP 2R1335 PARTS 1 & 2 RP 2R1749 PART 1 RP 2R37 PART 7 REG 198.17AC FR D, in the geographic Township of Brantford, known as 178 Newport Road, County of Brant, proposing to rezone a portion of the subject lands from Agriculture (A) to Agriculture with Site Specific Provision 178 (A-178) to recognize an existing accessory structure area of approximately 810 square metres (8,718.8 square feet) on the surplus dwelling parcel, and to rezone a portion of the subject lands from Agriculture (A) and Natural Heritage (NH) to Agriculture with Site Specific Provision 9 (A-9) and Natural Heritage (NH) to prohibit a dwelling as a permitted use on the retained parcel, **BE APPROVED**, subject to the following site specific provisions;

#### Site Specific Provisions (A-9):

- Notwithstanding the provisions of By-Law 61-16 to the contrary, within any area zoned A-9, no dwelling unit shall be permitted.
- All other provisions of the By-Law to apply;

#### Site Specific Provisions (A-178):

- To permit a maximum accessory structure area of approximately 810 square metres (8,718.8 square feet) to only recognize the existing accessory structures.
- All other provisions of the By-Law to apply;

And that the reason(s) for approval are as follows:

- The application is in conformity with the policies of the Growth Plan for the Greater Golden Horseshoe and consistent with the policies of *Provincial Policy Statement*.
- The application is in conformity with the general intent of the policies of the Official Plan and Zoning By-Law.

### Strategic Priority

Sustainable and Managed Growth.

## Financial Considerations

None.

## Executive Summary

The purpose of this report is to provide the Planning and Development Committee and the public with information from the applicant seeking to rezone the subject lands as a condition of a surplus dwelling severance. Specifically, the applicant is seeking to rezone the surplus dwelling with an area of approximately 1.3 hectares (3.2 acres) from Agriculture (A) to Agriculture with Site Specific Provision 178 (A-178) to recognize an accessory structure area of approximately 810 square metres (8,718.8 square feet). The intent of the site specific rezoning is to only recognize the *existing* accessory structures and to prevent the development of any new accessory structures. Should one of the accessory structures be removed, the applicant would not be able to rebuild. The structures would not be able to be rebuilt due to zoning requirements, specifically accessory structure lot coverage and height.

Furthermore, the applicant is seeking to rezone the remaining area of the subject lands, the retained lands, approximately 78 hectares (192.7 acres) from Agriculture (A) and Natural Heritage (NH) to Agriculture with Site Specific Provision 9 (A-9) and Natural Heritage (NH) to prohibit a dwelling as a permitted use on the retained parcel. The surplus farm dwelling severance application, B30-21-AW, was heard by the Committee of Adjustment in July 2021, and was conditionally approved. Conditions of approval included rezoning the retained lands to prohibit a dwelling, and to rezone the surplus dwelling to recognize the existing accessory structures.

A pre-consultation meeting was held in March 2021, where I originally was not in support of the severance application. It was my opinion the proposed area to be severed was too large and the accessory structure area was oversized. Staff provided these comments at the pre-consultation meeting and attended a site visit with Development Engineering ahead of the future severance application. During this site visit in late March 2021, Staff were able to evaluate the elevations of the property, the condition of the structures and were able to work together to find an appropriate solution. Through the site visit with Development Engineering Staff, it was determined the frontage of the proposed severance needed to be this large in order to accommodate the existing driveway as due to elevation changes, a new driveway could not be established. Furthermore, the shop at the rear of the property was to be included with the severed parcel as the area between the septic and shop was rocky and could not accommodate modern farm equipment. Furthermore, if the retained lands did not have any structures, the applicants would be able to utilize existing field entrances rather than being required to establish a new formal entrance through the public works department. I do note accessory structures cannot be used for unlawful purposes and their use must be in conformity with the Zoning By-Law.

This rezoning application is proceeding directly for recommendation as it is a condition of a severance application.

The planning analysis focuses on literature reviews of applicable policy (i.e. *Planning Act*, *Provincial Policy Statement* (2020), *Growth Plan for the Greater Golden Horseshoe* (2020), *County of Brant Official Plan* (2012), and *County of Brant Zoning By-Law*), consultation with departments, and an inspection of the neighbourhood. This report recommends that the Rezoning Application be **Approved**.

## Location

The subject lands are located on the east side of Newport Road, and south of the Old Greenfield Road and Newport Road intersection, and are located within the Former Township of Brantford. The lands municipally known as 178 Newport Road are irregular in shape, have a frontage of approximately 1,486.8 metres (4,877.9 feet) along Newport Road, a maximum depth of 145.8 metres (4,783.5 feet) along Old Greenfield Road and an area of approximately 79.3 hectares (196 acres).

Through the severance, the surplus farm dwelling is expected to have an area of approximately 1.3 hectares (3.2 acres) and a frontage of approximately 108.7 metres (356.6 feet) along Newport Road. The retained lands are expected to have an area of approximately 78 hectares (192.7 acres). The severed lands are to include the surplus dwelling, two decommissioned barns, garage and a shop with a cumulative area of approximately 810 square metres (8,718.7 square feet). Staff note two existing barn structures are to be demolished due to their condition. The applicant has confirmed there is approximately 20 metres between the severance and the rear lot line that will allow for sufficient passage of farm equipment.

## Report

### **Planning Act R.S.O (1990)**

Section 34(10) of the *Planning Act* provides policy direction to be considered when reviewing Zoning By-Law Amendment Applications.

### **Provincial Policy Statement (2020)**

Section 2.3.1 describes how Prime Agricultural areas shall be protected for long term agricultural use.

***Through the severance application, the retained lands are expected to have an area of approximately 78 hectares (192.7 acres) and will be farmed as part of a larger farming operation. The rezoning application will prevent new residential dwellings being built. The applicant has confirmed there is approximately 20 metres between the severance and the rear lot line that will allow for sufficient passage of farm equipment.***

Section 2.3.3.1 speaks to permitted uses and activities within prime agricultural areas which including agricultural uses, agriculture related uses and on farm diversified use.

***Through the severance application, the retained lands will continue to be farmed as part of a larger farming operation and no new residential building lots will be created.***

Section 2.3.3.2 describes how in prime agricultural areas, all types, sized and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

***The retained lands that are proposed to be rezoned to prohibit a dwelling will be farmed as part of a larger farming operation and is expected to grow cash crops.***

Section 2.3.4.1(c) describes how lot creation in prime agricultural areas is discouraged and may only be permitted for a residence surplus to a farming operations, provided that:

1. The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. The planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure

that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective

***The lands to be severed through severance application B30-21-AW are expected to have an area of approximately 1.3 hectares (3.2 acres) and is able to accommodate all private servicing. Due to the elevations of the subject lands, the severed parcel is larger to accommodate the existing driveway as a new driveway cannot be established due to sight lines. Furthermore, the retained lands with an area of approximately 78 hectares (192.7 acres) is proposed to be rezoned to prohibit a dwelling as a permitted use.***

***This application is consistent with the Provincial Policy Statement (2020) for the following reasons:***

- ***The retained lands will continue to be used for agricultural purposes, and will be farmed as part of a larger farming operation.***
- ***No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling as a condition of severance.***
- ***The dwelling is surplus to the larger farming operation of Shermandale Farms.***

### **Growth Plan for the Greater Golden Horseshoe (2020)**

Section 2.2.1.2 (b) of the Growth Plan describes how growth will be limited on lands that are not serviced by existing or planned municipal water and wastewater system.

***The severed parcel will continue to be privately serviced.***

Section 4.2.6.4 of the Growth Plan describes how the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced.

***The retained lands are expected to have an area of approximately 78 hectares (192.7 acres) and will be farmed as part of a larger farming operation with cash crops.***

Section 4.2.6.5 of the Growth Plan speaks to the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged.

***The retained lands will continue to be farmed as part of a larger farming operation and no new residential building lots will be created as they are being proposed to be rezoned to prohibit a dwelling as a permitted use.***

***It is my opinion that the proposal is in conformity with the policies in the Growth Plan for the Greater Golden Horseshoe (2020) for the following reasons:***

- ***The retained lands will continue to be used for agricultural purposes, and will be farmed as part of a larger farming operation.***
- ***No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling as a condition of severance.***
- ***The dwelling is surplus to the larger farming operation of Shermandale Farms.***

### **Source Water**

Staff have reviewed Source Water Protection Area mapping, and the subject lands are not within a Source Water Protection zone.

## **County of Brant Official Plan (2012)**

The subject lands are designated Agricultural and Natural Heritage in the County of Brant Official Plan (OP). I note, the surplus dwelling is designated as Agriculture.

Section 1.11.2.6.2(b) of the County of Brant Official Plan speaks to protecting the County's prime agricultural area for long term agricultural purposes.

***The retained lands will continue to be designated as Agriculture, and will be farmed as part of a larger farming operation with cash crops.***

Section 1.11.2.6.2(e) of the County of Brant Official Plan restricts the creation of new residential lots and other non-farm development in the County's Agricultural areas.

***As a condition of severance, the applicant is proposing to rezone the retained lands to prohibit a dwelling, in addition to rezoning the surplus dwelling to recognizing the existing oversized accessory structures.***

Section 1.11.2.6.2(i) of the County of Brant Official Plan requires the development of urban and nonfarm-related land uses to the County's Primary and Secondary Urban Settlement Areas and Hamlets and Villages, or areas specifically intended for the proposed land use, in order to protect the long-term operation and economic role of agriculture.

***The retained lands will continue to be farmed as part of a larger agricultural operation, with no new residential building lots being created.***

Section 3.3.1(a) of the County of Brant Official Plan describes how the primary form and predominant use of land in the Agriculture designation shall include all types of farming and normal farm practices, including the growing of crops, the raising of livestock and other animals for food, fur, or fibre; associated on-farm buildings and structures, including accommodation for associated full-time farm labour as required based on the size and nature of the operation; agricultural research operations; uses connected with the conservation of water, soil, wildlife and other natural resources; and resource extraction and resource-based uses.

***The retained lands will continue to be designated as Agriculture, and will be farmed as part of a larger farming operation with cash crops.***

Section 3.3.1(c) of the County of Brant Official Plan describes how in general, one residential dwelling unit shall be permitted per lot on lands designated as Agriculture.

***As a condition of severance, the applicant is proposing to rezone the retained lands to prohibit a dwelling.***

Section 6.8.2.1(a) of the County of Brant Official Plan speaks to consents for the diversion of land in the Agriculture designation being discouraged. No consent shall be allowed within the Agriculture designation which may have the effect of creating lots that are not primarily related to agriculture, or agriculture-related commercial/industrial, or as specified by this Plan.

***As a condition of severance, the applicant is proposing to rezone the retained lands to prohibit a dwelling.***

Section 6.8.2.1(b) of the County of Brant Official Plan speaks to consent applications being denied for the following reasons:

- i. the lot does not front on a public road;
- ii. the lot is situated in an area where the County of Brant (or its designated agent) believes is unsuitable for sanitary services;
- iii. the lot is entirely contained within the Natural Heritage System designation or

- Provincially significant woodlands; or
- iv. the lot is entirely contained within an area identified as a primary aggregate resource area.

***The severed and retained parcels have frontages along public Roads, and the lands to be severed are not located within the area identified as Natural Heritage.***

***It is my opinion that the proposal conforms to the policies in the County of Brant Official Plan (2012) for the following reasons:***

- ***Through the severance, no new residential building lots are being created.***
- ***The retained lands are expected to be farmed with cash crops through part of a larger farming operation.***
- ***The severed and retained parcels have frontage along Newport Road.***
- ***The severed parcel is large enough to accommodate private servicing.***

### **County of Brant Zoning By-Law 61-16**

The subject lands are zoned Agricultural (A) and Natural Heritage (NH) within the County of Brant Zoning By-Law 61-16. I note, the surplus dwelling area is currently zoned as Agriculture (A), whereas the retained lands are currently zoned Agriculture (A) and Natural Heritage (NH).

Section 4.29 of the Zoning By-Law speaks to the following requirements for surplus dwellings:

- a) If the lot has a minimum 20.0 metre frontage, then said lot shall be deemed to comply with the requirements of this By-Law with respect to the lot area or lot frontage
- b) The dwelling shall only be considered surplus to the farming operations if it was constructed a minimum of 15 years prior to the date the application for the surplus farm dwelling consent is received
- c) The dwelling must be considered habitable at the time of application, as determined by the local municipal Chief Building Official
- d) Minimum Distance Separation Guidelines shall apply as if the property were zoned or designated as a residential lot

***The proposed severance satisfies the provisions above as the dwelling is older than 15 years and is habitable based on Staff's site visit. Additionally a frontage of 108.7 metres is proposed.***

Section 6.1, Table 6.1 speaks to the permitted uses on lands zoned as Agriculture. Permitted uses include:

- Agricultural use
- Aviary
- Cannabis Production Facility
- Dwelling, Single Detached
- Farm Labour Housing
- Farm Production Outlet
- Forestry Uses excluding any establishments that either process forestry products or sell processed forestry products such as lumber mills;
- Farm Greenhouse;
- Livestock Facility; and,
- Shipping Container in accordance with Section 4.35.

Section 6.2, Table 6.2 of the County of Brant Zoning By-Law speaks to the development requirements for lands zoned as Agriculture. See chart below for analysis of development standards.

Development Standard	Required - Dwelling	Requested – Severed Lands	Requested – Retained Lands
Lot Area, Minimum (ha)	40ha	1.3 ha* surplus dwelling	79.3ha
Lot Frontage, Minimum (m)	150m	108.7m	1,378.1m
Street Setback, Minimum (m)	10m	67.5m	N/A – no structures
Interior Side Yard Setback, Minimum (m)	4m	9.5m	N/A – no structures
Rear Yard Setback, Minimum (m)	10m	94.3m	N/A – no structures
Lot Coverage, Maximum	30%	2%	N/A – no structures

Section 4.4, Table 4.1 of the County of Brant Zoning By-Law speaks to the development standards for accessory structures. See chart below for analysis of development standards.

Development Standard	Required	Requested – Severed Lands
Lot Coverage, Maximum	200 sq.m	810 sq.m
Street setback, Minimum	25m	30.4m
Interior Side Yard setback, Minimum	3m	3.1m
Rear Yard Setback, Minimum	3m	3m
Structure Height, Maximum	5m	Existing structures

***It is my opinion that the proposal maintains the intent of the County of Brant Zoning By-Law 16-61 for the following reasons:***

- ***Through the severance, no new residential building lots are being created.***

- ***The retained lands are expected to be farmed with cash crops through part of a larger farming operation.***
- ***The severed and retained parcels have frontage along Newport Road.***
- ***The rezoning application is proposing to rezone the retained lands to prohibit a dwelling, and to recognize the existing accessory structure area.***
- ***The severed parcel is large enough to accommodate private servicing.***

### ***Interdepartmental Considerations***

#### Community Services:

- No comment.

#### Development Engineering:

- No comment.

#### Environmental Planning:

- No comment.

#### Operations:

- No comment.

#### Canada Post:

- Please be advised that Canada Post does not have any comments on this application for severance and zoning application as this will not affect mail delivery.

The following agencies did not provide comment:

- Building
- Fire
- Lot Grading
- Bell Canada
- Brant Haldimand Norfolk Catholic District School Board
- GRCA
- Hydro 1
- Six Nation/Mississaugas of the Credit

### ***Public Considerations***

15 Notices were mailed on September 20, 2021. Staff attended the subject lands on September 15, 2021 and posted the notice sign meeting the requirements of the *Planning Act*.

At the time of writing this report, no public comments were received.

### ***Conclusions and Recommendations***

The applicant is seeking to rezone an area of approximately 1.3 hectares (3.2 acres) from Agriculture (A) to Agriculture with Site Specific Provision 178 (A-178) to recognize an accessory structure area of approximately 810 square metres (8,718.8 square feet). The intent of the site specific rezoning is to only recognize the existing structures and to prevent the development of any new accessory structures. Should one of the accessory structures being recognized be removed, the applicant would not be able to rebuild.

Furthermore, the applicant is seeking to rezone the remaining area of the subject lands, approximately 78 hectares (192.7 acres) from Agriculture (A) and Natural Heritage (NH) to



Agriculture with Site Specific Provision 9 (A-9) and Natural Heritage (NH) to prohibit a dwelling as a permitted use on the retained parcel.

A pre-consultation meeting was held in March 2021, with Staff attending a site visit later in March 2021. At this site visit, Staff were able to evaluate the elevations of the property, the condition of the structures and were able to work together to find a solution. Through the site visit with Development Engineering Staff, it was determined the frontage of the proposed severance needed to be this large in order to accommodate the existing driveway as due to elevation changes, a new driveway could not be established. Furthermore, the shop at the rear of the property was to be included with the severed parcel as the area between the septic and shop was rocky and could not accommodate modern farm equipment. Furthermore, if the retained lands did not have any structures, the applicants would be able to utilize existing field entrances rather than being required to establish a new formal entrance through the public works department. The applicant has also confirmed the lands north of the surplus dwelling are accessible through a farm entrance.

To facilitate the surplus dwelling, the applicants were required as a condition of severance to apply for a minor rezoning to recognize the existing oversized structures on the severed parcel, and to prohibit a dwelling on the retained parcel. This was included as a condition of approval, and was communicated at the Pre-Consultation meeting.

I am supportive of the rezoning application as it is consistent with the *Provincial Policy Statement*, conforms to the Growth Plan for the Greater Golden Horseshoe, in conformity with the County of Brant Official Plan (2012), and meets the intent with the County of Brant Zoning By-Law 61-16, and therefore recommend approval of the application.

Prepared by:



**Amanda Wyszynski**  
Planner

**Reviewed by:** Mat Vaughan, BES, MPLAN, MCIP, RPP, CMM3 Director of Planning

**Submitted By:** Pamela Duesling, MAES, MCIP, RPP, Ec.D., CMM3, General Manager of Development Services

### **Attachments**

1. Zoning Figure
2. Official Plan Figure
3. Aerial Figure
4. Draft By-Law

### **Copy to**

1. Pam Duesling, General Manager of Development Services
2. Mat Vaughan, Director of Development Planning
3. Heather Boyd, Clerk/Manager of Council Committee Services
4. Alyssa Seitz, Planning Clerk
5. Applicant/Agent

**File # ZBA32-21-AW**

**In adopting this report, is a bylaw or agreement required?**

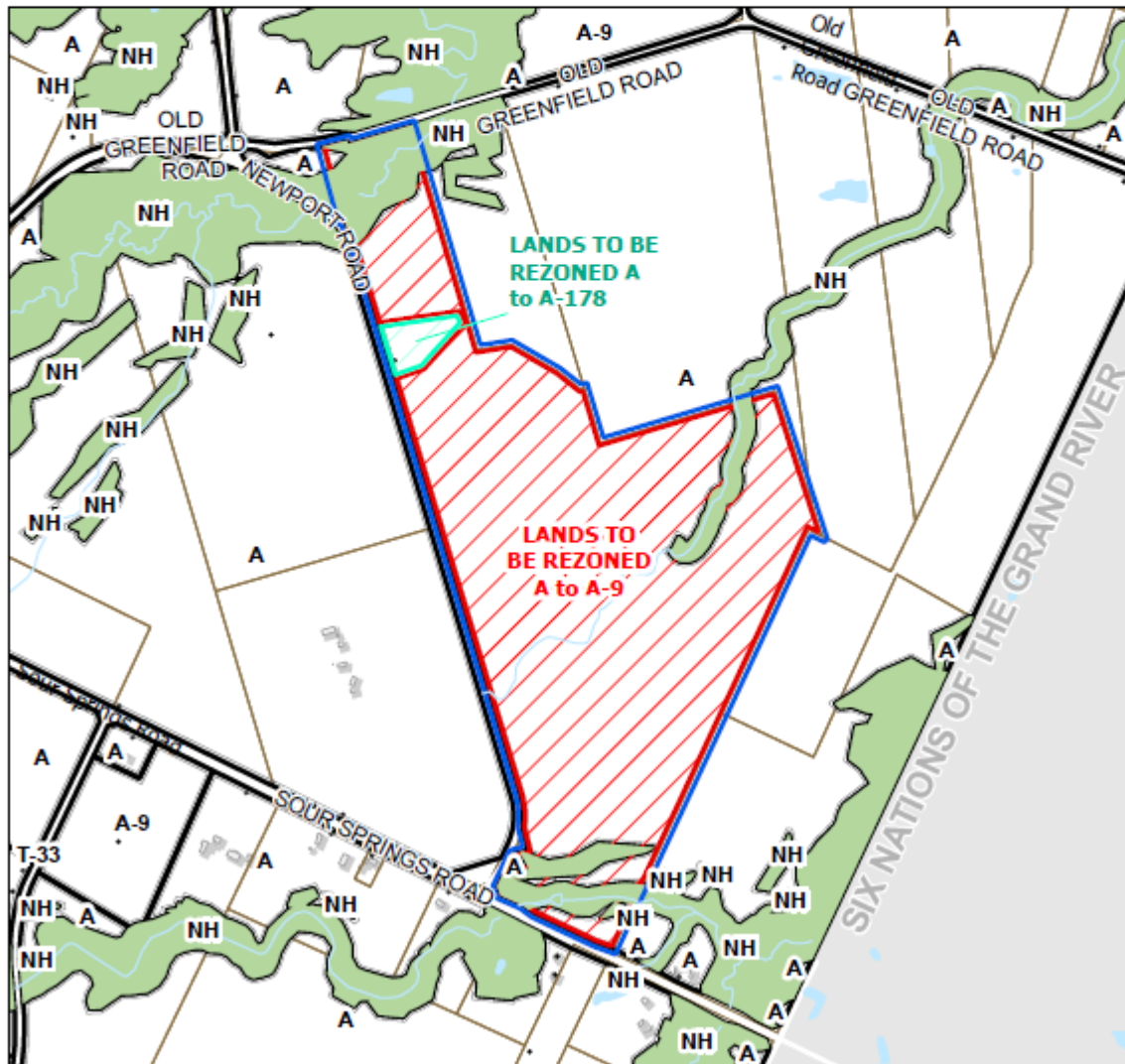
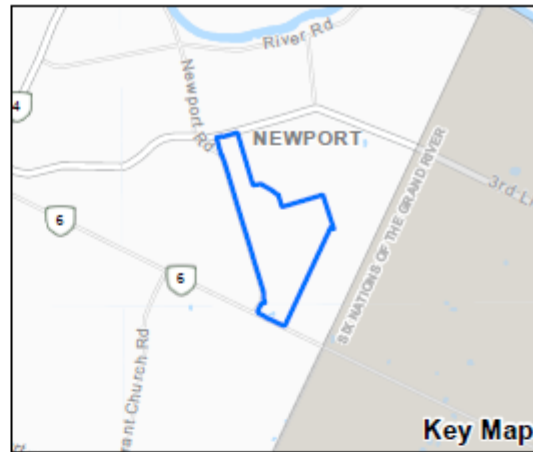
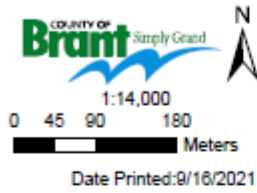
By-Law required (Yes)

Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)

Is the necessary By-Law or agreement being sent concurrently to Council? (Yes)

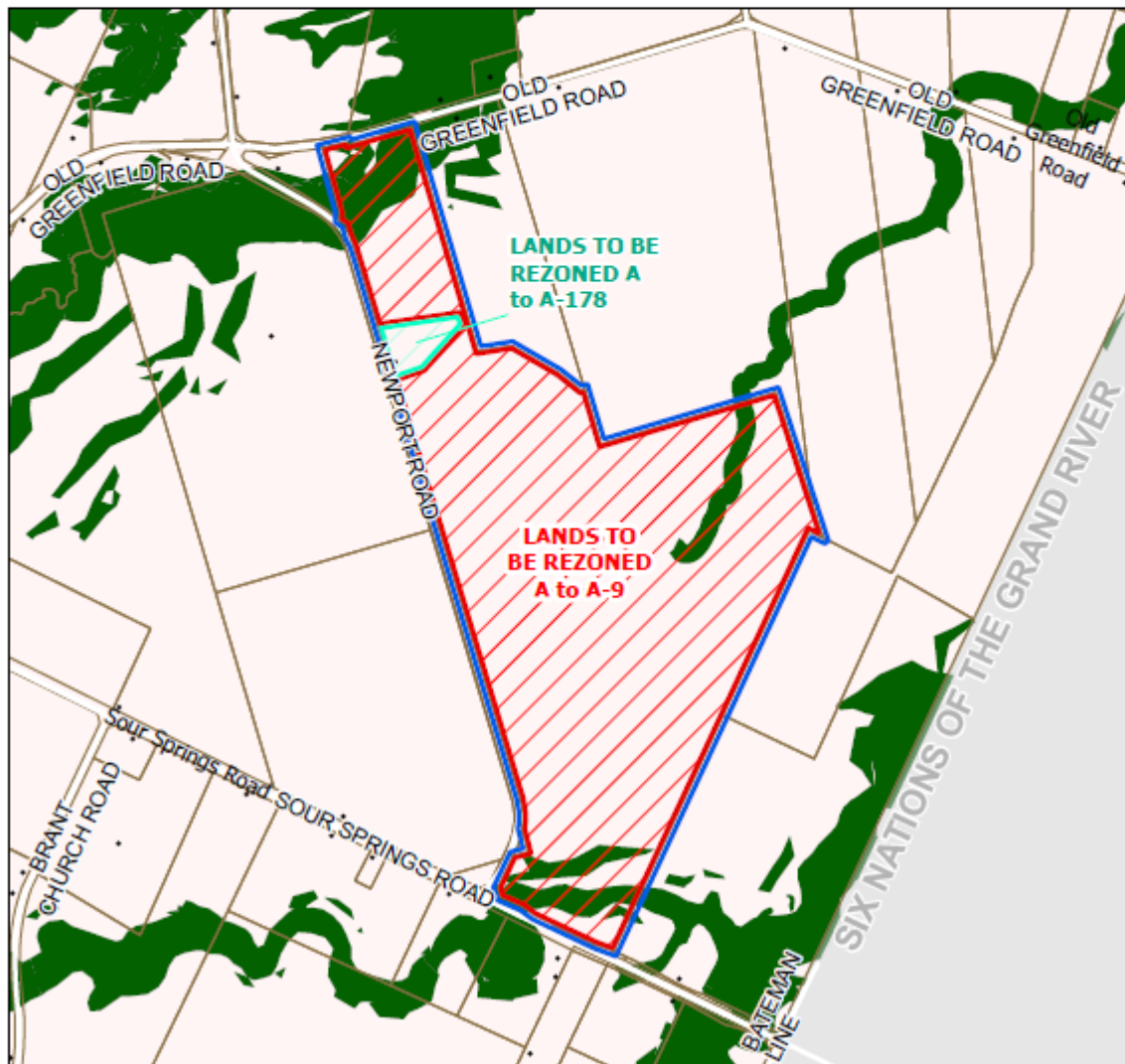
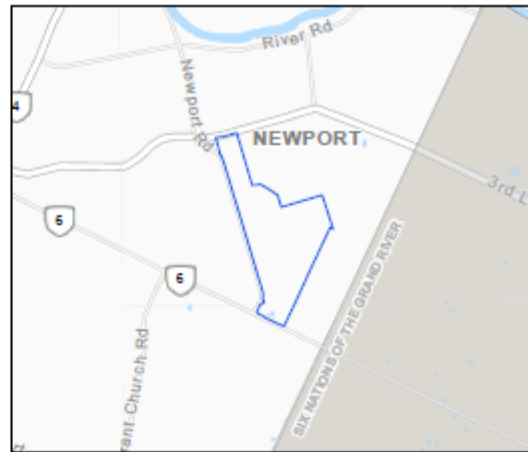
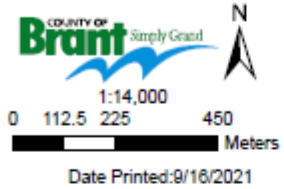
**MAP 1: ZONING  
FILE NUMBER  
ZBA32-21-AW**

178 NEWPORT ROAD  
County of Brant  
Ontario



**MAP 2: OFFICIAL PLAN  
FILE NUMBER  
ZBA32-21-AW**

178 NEWPORT ROAD  
County of Brant  
Ontario



**MAP 3: AERIAL IMAGERY 2020**  
**FILE NUMBER**  
**ZBA32-21-AW**

178 NEWPORT ROAD  
County of Brant  
Ontario

