



Planning and Development Committee Report

To: To the Chair and Members of the Planning and Development Committee
From: Dan Namisniak, Planner
Date: June 7, 2022
Report: RPT-22-82
Subject: ZBA8-22-DN - Zoning By-Law Amendment Application
Purpose: For Approval.

Recommendation

THAT Zoning By-Law Amendment Application **ZBA8-22-DN** from J.H. Cohoon Engineering, Agent on behalf of Richard Johnson, Applicant/ Owner of Part Lot 11, Part Lot 12 Concession 14, County of Brant, in the geographic township of Burford, located at 226 Burford Delhi Townline Road proposing the following in order to facilitate further residential development by way of severance to produce three (3) additional residential building lots within the Hamlet/Village of Kelvin:

1. Change the zoning on the portion of lands located within the Hamlet/Village of Kelvin from Agricultural-Special Exception (A-23) Zone and Temporary (T-82) Zone to Residential Hamlet (RH) Zone, and
2. Modify the existing Agricultural-Special Exception (A-23) zone to permit a minimum lot area of 3.1 hectares (7.7 acres) and minimum frontage of 31 metres (101 feet) in addition to the uses currently permitted within the Agricultural-Special Exception (A-23) Zone, and
3. Modify the boundaries of the Natural Heritage (NH) zone to reflect a minimum 30 metre buffer on each side of the identified watercourse, **BE APPROVED.**

THAT the reason(s) for approval are as follows:

- The application is consistent with the policies of the *Provincial Policy Statement* and in conformity with the Growth Plan for the Greater Golden Horseshoe.
- The application is in conformity with the general intent of the policies of the County of Brant Official Plan (2012) and Zoning By-Law.

Key Strategic Priority

1. Sustained and Managed Growth

Financial Considerations

None.

Executive Summary / Background

The purpose of this report is to provide the Planning and Development Committee and the public with information from the application to amend the County of Brant Zoning By-Law 61-16.

The minor Zoning By-Law Amendment Application **ZBA8-22-DN** proposes the following:

1. Change the zoning on the portion of lands located within the Hamlet/Village of Kelvin from Agricultural-Special Exception (A-23) Zone and Temporary (T-82) Zone to Residential Hamlet (RH) Zone; and
2. Modify the existing Agricultural-Special Exception (A-23) zone to permit a minimum lot area of 3.1 hectares (7.7 acres) and minimum frontage of 31 metres (101 feet) in addition to the uses currently permitted within the Agricultural-Special Exception (A-23) Zone; and
3. Modify the boundaries of the Natural Heritage (NH) zone to reflect a minimum 30 metre buffer on each side of the identified watercourse.

This application is required in order to facilitate further residential development by way of severance to produce three (3) additional residential building lots within the Hamlet/Village of Kelvin.

The following studies/ drawings / reports form part of the complete submission and circulated as part of the technical review by applicable internal and external commenting agencies:

- Planning Justification Report
- Preliminary Site Development Plan
- Preliminary Survey

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. This report recommends this Application be **Approved**.

Location

The subject lands are municipally addressed as 226 Burford Delhi Townline Road, partially located within the Village/ Hamlet of Kelvin. The subject lands are located on the north side of Burford Delhi Townline Road east of Middle Townline Road.

The subject lands are rectangular in shape and have frontage 147 metres (484 feet) and area of approximately 4 hectares (10 acres).

Approximately 1.45 hectares (3.7 acres) are located within the settlement boundary for the Village/ Hamlet of Kelvin

The surrounding lands include residential and agricultural land uses.

The subject lands are privately serviced with water and septic.

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.

Conformity with Municipal Policies/Plans

Provincial Policy Statement (PPS)– 2020

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest

regarding land use planning and development and sets the policy foundation for regulating land use and development of land. All decisions affecting planning matters shall be 'consistent with' policy statements issued under the Planning Act.

Section 1.1.1 of the Provincial Policy Statement identifies a number of criteria which contributes to sustaining a healthy, livable and safe community which include:

- b. accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons)
- ***The application proposes to change the zoning on a portion of the subject lands in order to permit additional residential land uses in the form of single detached dwellings.***

Section 1.1.3.1 of the *Provincial Policy Statement* identifies that Settlement Areas shall be the focus of growth and development. Settlement Areas can be identified as urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets).

- ***The subject lands are located within an identified rural settlement area known as the Village/ Hamlet of Kelvin, and are designated for residential land uses within the County of Brant Official Plan.***

Section 1.1.3.4 of the *Provincial Policy Statement* notes that appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

- ***The proposal is located along the limits of the identified rural settlement area and represents a 'minor rounding out' of development. The proposal is adjacent to existing residential land uses and based on current policies, the subject lands would not support any further lot creation beyond what is proposed.***

Section 2.1.8 of the *Provincial Policy Statement* Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

- ***As part of pre-consultation, Staff advised that an Environmental Impact Study (EIS) would not be required if a 30 metre buffer on each side of the watercourse is zoned Natural Heritage and provided that no new lots are proposed in the 30 metre setback.***

In summary, based on the review of the Provincial Policy Statement, this development is located within an identified Rural Settlement Area and proposes to provide a residential built form that will contribute to a compatible and desirable mix of housing options.

It is my professional opinion that the request is consistent with the policies of the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan is a framework that provides policy direction to implement strong and prosperous communities and how to manage growth in Ontario to 2051. The Planning Act requires that all decisions that affect a planning matter shall 'conform with' Provincial plans,

including but not limited to the Growth Plan.

Policy 2.2.1.2(c) describes that limited growth will occur in settlement areas that are rural settlements and are not serviced by existing or planned municipal water and waste water systems.

- ***The subject lands are located within an identified rural settlement area known as the Village/ Hamlet of Kelvin, and are designated for residential land uses within the County of Brant Official Plan.***
- ***The subject lands are proposed to be developed on private infrastructure (water, sanitary and storm) as there are no services planned for this area at this time.***

Policy 4.2.6.3 describes that where agricultural uses and non-agricultural uses interface outside of settlement areas, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System.

- ***A portion of the subject lands are identified as a Prime Agricultural land use which is located outside of the Village/ Hamlet of Kelvin boundaries.***
- ***The protection of the Agricultural portion surrounding livestock facilities has been considered as part of the review of this application and can conclude that the approval of this application will not result in further negative impact on the abutting or surrounding Agricultural uses.***

It is my professional opinion that the request conforms to the policies of the Growth Plan.

County of Brant Official Plan 2012

Schedule 'A' of the County of Brant Official Plan identifies the land use designation of the subject lands as 'Hamlet and Villages', 'Natural Heritage' and 'Agricultural'.

Hamlet and Villages

Section 2.2.3.2.a of the County of Brant Official Plan states a limited amount of growth and development may occur, subject to the following criteria:

i. the proposed development is subject to the policies of Section 3.6 of this Plan;	· <i>The application proposes to permit further residential development within the existing limits of the Village/ Hamlet of Kelvin.</i>
ii. the proposed development is within the area of settlement's boundary and has access to potable water;	· <i>The Applicants will be required to provide proof of potable water to the satisfaction of the building division as a condition of consent application to create the lot(s).</i>
iii. new development that is in the form of infilling and minor rounding out of the existing built-up area shall be prioritized;	· <i>The form of development proposed is considered infilling and minor rounding of the existing built-up area.</i>
iv. a servicing feasibility study has been completed in accordance with the Ministry of the Environment guidelines which demonstrates that the impact of new development on ground and surface water shall be within acceptable limits;	· <i>The Applicants will be required to demonstrate that drainage and grading are consistent with County of Brant Engineering Standards as a condition of consent application to create the lot(s).</i>

v. the proposed servicing is appropriate for the proposed densities and land uses;	· <i>The form of development proposed is considered to be consistent and compatible with the surrounding land uses.</i>
vi. the available community facilities, such as community centres, schools, commercial, recreational or cultural facilities can accommodate the proposed development; and	· <i>Existing amenities within the Village/ Hamlet of Kelvin and surrounding areas are able to support the minimal residential growth proposed.</i>
vii. the proposed development is compatible with existing surrounding land uses.	· <i>The form of development proposed is considered to be consistent and compatible with the surrounding land uses.</i>

Section 3.6 of the County of Brant *Official Plan* identifies that the intent of the *Hamlets and Villages* designation is to accommodate a limited amount of residential, commercial, community, and industrial service uses in order to prevent scattered, non-farm development in the Agriculture designation and provide service support for the surrounding agricultural areas.

- ***The application proposes to permit further residential development within the existing limits of the Village/ Hamlet of Kelvin.***

Section 3.6.2 speaks to the permitted uses on land that is designated Hamlets and Villages:

- a. The predominant use of land in the Hamlets and Villages designation shall be low density residential dwellings, including single detached dwellings, semi-detached dwellings, duplex/triplex/fourplex dwellings and converted dwelling units containing two or more dwelling units.
- ***The application proposes to develop future lots with single detached dwellings.***

Natural Heritage Area

Section 2.3.2.2.e provides the following policies that apply to proposals for development and site alteration, within natural heritage features and adjacent to natural heritage features. Development or site alteration in, or on land adjacent to, natural heritage features and areas shall not be permitted unless it has been demonstrated to the satisfaction of the County that there shall be no negative impacts on the natural heritage features and areas or on their ecological functions.

- ***As part of pre-consultation, Staff advised that an Environmental Impact Study (EIS) would not be required if a 30 metre buffer on each side of the watercourse is zoned Natural Heritage and provided that no new lots are proposed in the 30 metre setback.***

Agricultural Designation

Section 1.11.2.6.2 provides objectives with respect to Agricultural land within the County, specifically the need to promote and encourage a wide range and scale of on-farm diversified uses and businesses, in accordance with provincial guidelines, which provide the opportunity for farming operations to earn a supplementary income in a manner that minimizes the use of prime agricultural lands.

- ***This application proposes to separate the residential uses from the existing agricultural uses, allowing the agricultural uses to be maintained and protected.***

It is my professional opinion that the request conforms to the policies of the County of Brant Official Plan.

Source Water Protection

Source water protection plans contain a series of locally developed policies that, as they are implemented, protect existing and future sources of municipal drinking water. Municipalities, source protection authorities, local health boards, the Province and others, are responsible for implementing source protection plan policies.

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

County of Brant Zoning By-Law 61-16

Zoning By-law 61-16 identifies that the subject lands are zoned the following:

- **Agricultural-23 (A-23)**
 - In addition to the uses permitted in the Agricultural (A) Zone, an automobile repair garage and vehicle sales establishment shall also be permitted. All repairs shall be confined to the interior of existing buildings and the storage of vehicles for sale shall be limited to a maximum of 6 vehicles.
- **Temporary-82 (T-82)**
 - In addition to the uses permitted in the A-23 Zone, a garden suite shall also be permitted temporarily for a maximum period of three years, provided that it is removed on or before September 24, 2022.
- **Natural Heritage (NH)**
 - Means land that contains key hydrologic features, key natural heritage features and/or lands that have been identified by the conservation authority as hazardous lands or sites with flooding hazard or erosion hazard.
- ***This application proposes to change the zoning on the portion of lands located within the Hamlet/Village of Kelvin from Agricultural-Special Exception (A-23) Zone and Temporary (T-82) Zone to Residential Hamlet (RH) Zone;***
- ***To Modify the existing Agricultural-Special Exception (A-23) zone to permit a minimum lot area of 3.1 hectares (7.7 acres) and minimum frontage of 31 metres (101 feet) in addition to the uses currently permitted within the Agricultural-Special Exception (A-23) Zone; and***
- ***Modify the boundaries of the Natural Heritage (NH) zone to reflect a minimum 30 metre buffer on each side of the identified watercourse.***

It is my professional opinion that the request is appropriate and maintains the intent of the County of Brant Zoning By-Law (61-16).

Interdepartmental Considerations

The following comments were received from departments/agencies as part of the circulation of this application:

Environmental Planning:

- Environmental Planning staff have reviewed the proposal to rezone the subject lands to facilitate the creation of three new residential lots. Staff wish to provide comments on the rezoning application, as well as preliminary comments on the consent.

- As part of pre-consultation, staff advised that an Environmental Impact Study (EIS) would not be required if a 30 metre buffer on each side of the watercourse is zoned Natural Heritage and provided that no new lots are proposed in the 30 metre setback.
- In summary, staff have no concerns with the Zoning By-Law amendment provided that the Natural Heritage Zone is expanded to include a 30 metre vegetation protection zone on each side of the watercourse.
- The subject lands are traversed by a watercourse that is identified by Provincial mapping as having a cool water thermal regime. Section 4.3.4.3 of the Zoning By-Law states that no building or structure shall be constructed closer than 30 metres to a cool watercourse without prior written authorization of the County.
- The *Provincial Policy Statement* and Official Plan contain policies on the protection of water quality and quantity of water in addition to ensuring that there will be no negative impacts on fish habitat. Staff have recommended that the 30 metre setback be incorporated into the Natural Heritage Zone to prevent new buildings and structures from being built near the watercourse.

Long Point Region Conservation Authority (LPRCA):

- LPRCA has no objection to this application.

The following departments/agencies did not provide any comments/ concerns as part of the circulation of this application:

- | | |
|---------------------------|---|
| · Development Engineering | · Canada Post |
| · Field Services | · GIS Mapping / Civic Addressing |
| · Fire | · Parks & Facilities |
| · Operations | · Energy Plus: |
| · Building | · Union Gas |
| · Economic Development | · Imperial Oil |
| · Energy Plus | · Six Nation/Mississaugas of the Credit |
| | · Bell Canada |

Public Considerations

Notice of the June 7, 2022 public meeting for this application including, Contact information and Public Hearing Date was circulated by mail on May 18, 2022 to all property owners within 125 metres of the subject lands in accordance with the *Planning Act*. A site visit along with the posting of the Public Notice sign was completed on May 18, 2022.

Public Comments:

- J. Eisenbach & K. Goliboski - 220 Burford-Delhi Townline Rd
 - Comments with Staff response following are attached to this Report for review.

At the time of writing this report, no public comments or correspondence have been received.

Conclusions and Recommendations

The purpose of this report is to provide the Planning and Development Committee and the public with information from the application to amend the County of Brant Zoning By-Law 61-16.

Minor Zoning By-Law Amendment Application **ZBA8-22-DN** proposes the following:

1. Change the zoning on the portion of lands located within the Hamlet/Village of Kelvin from Agricultural-Special Exception (A-23) Zone and Temporary (T-82) Zone to Residential Hamlet (RH) Zone; and
2. Modify the existing Agricultural-Special Exception (A-23) zone to permit a minimum lot area of 3.1 hectares (7.7 acres) and minimum frontage of 31 metres (101 feet) in addition to the uses currently permitted within the Agricultural-Special Exception (A-23) Zone.
3. Modify the boundaries of the Natural Heritage (NH) zone to reflect a minimum 30 metre buffer on each side of the identified watercourse.

This application is required in order to facilitate the severance of three (3) lots for further residential development within the Hamlet/Village of Kelvin.

Based on the analysis above, Staff can confirm that the appropriate measures have been taken to ensure that the rezoning and future related severances are consistent with the *Provincial Policy Statement* and conform to the County of Brant Official Plan. None of the agencies and departments circulated raised any concerns.

It is my professional opinion that the request is, appropriate, minor and technical in nature and represents good planning and therefore I recommend that the Zoning By-Law Amendment Application **ZBA8-22-DN** be Approved.

Attachments

1. Zoning Map
2. Official Plan Map
3. Aerial Map
4. Proposed Site Development Plan
5. Public Comments

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 Administrative Assistant
5. Applicant/Agent/ Owner

File # ZBA8-22-DN

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

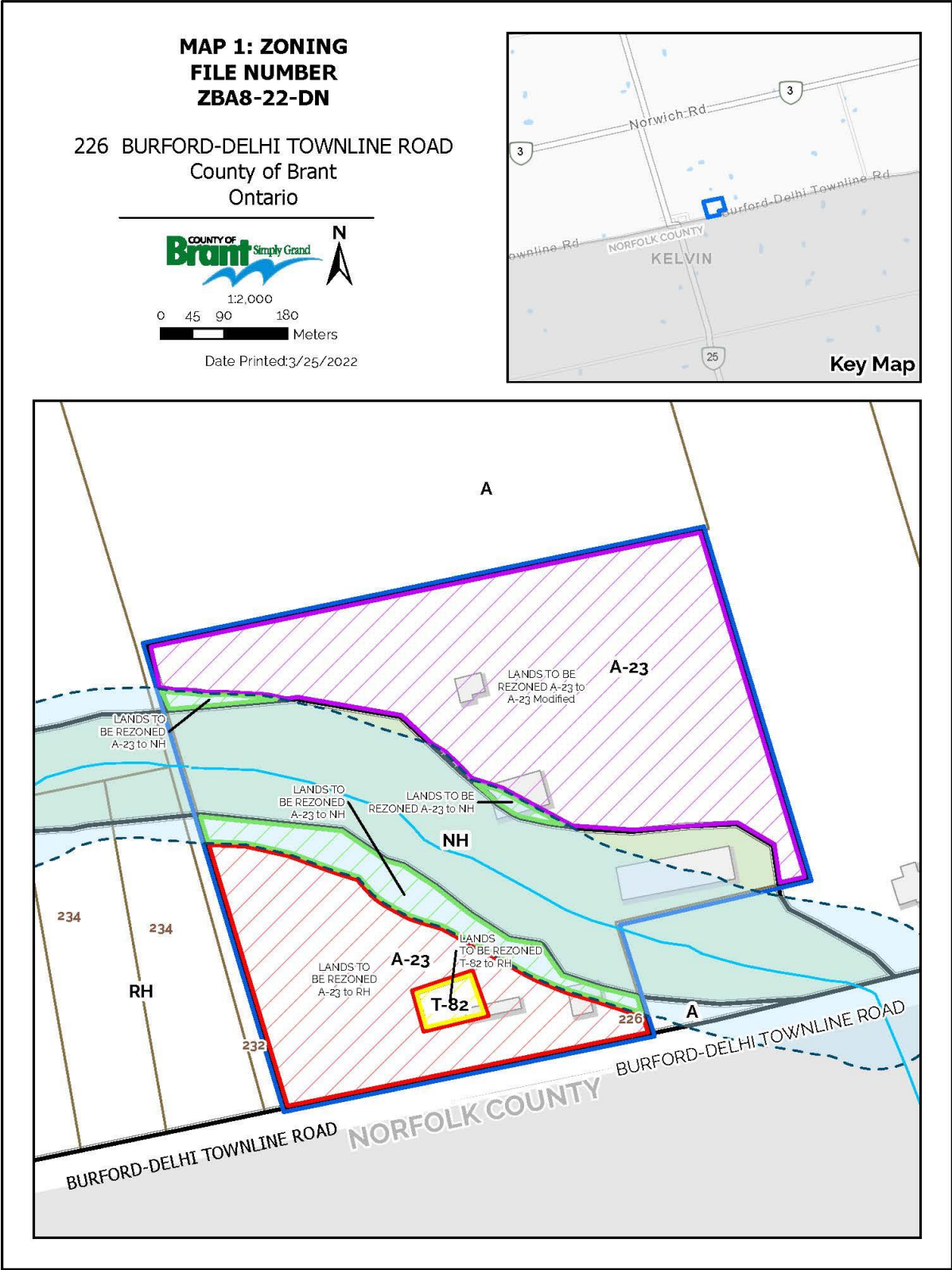
If so, it should be referenced in the recommendation section.

By-Law required? (Yes)

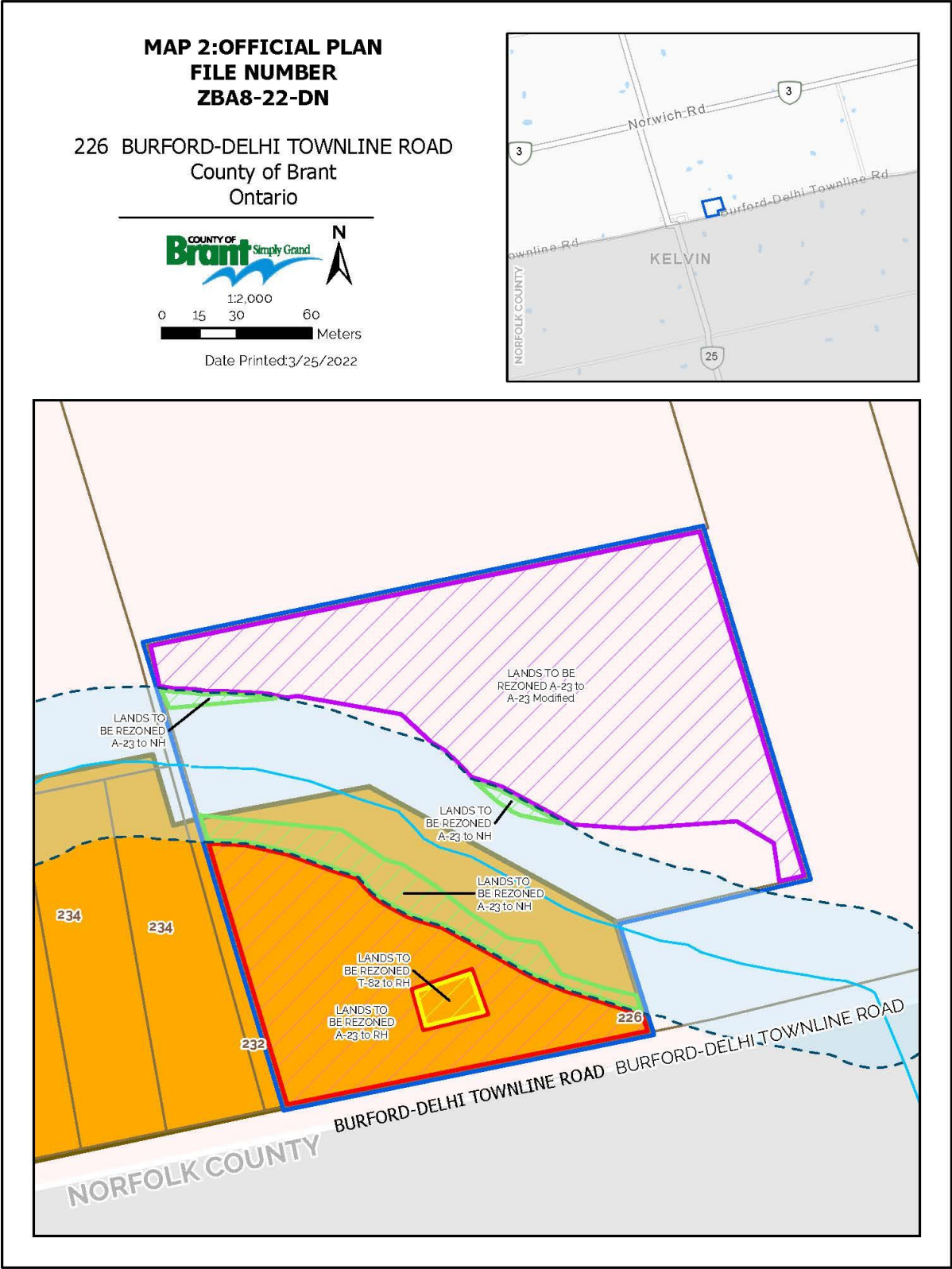
Agreement(s) or other documents to be signed by Mayor and /or Clerk? (No)

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

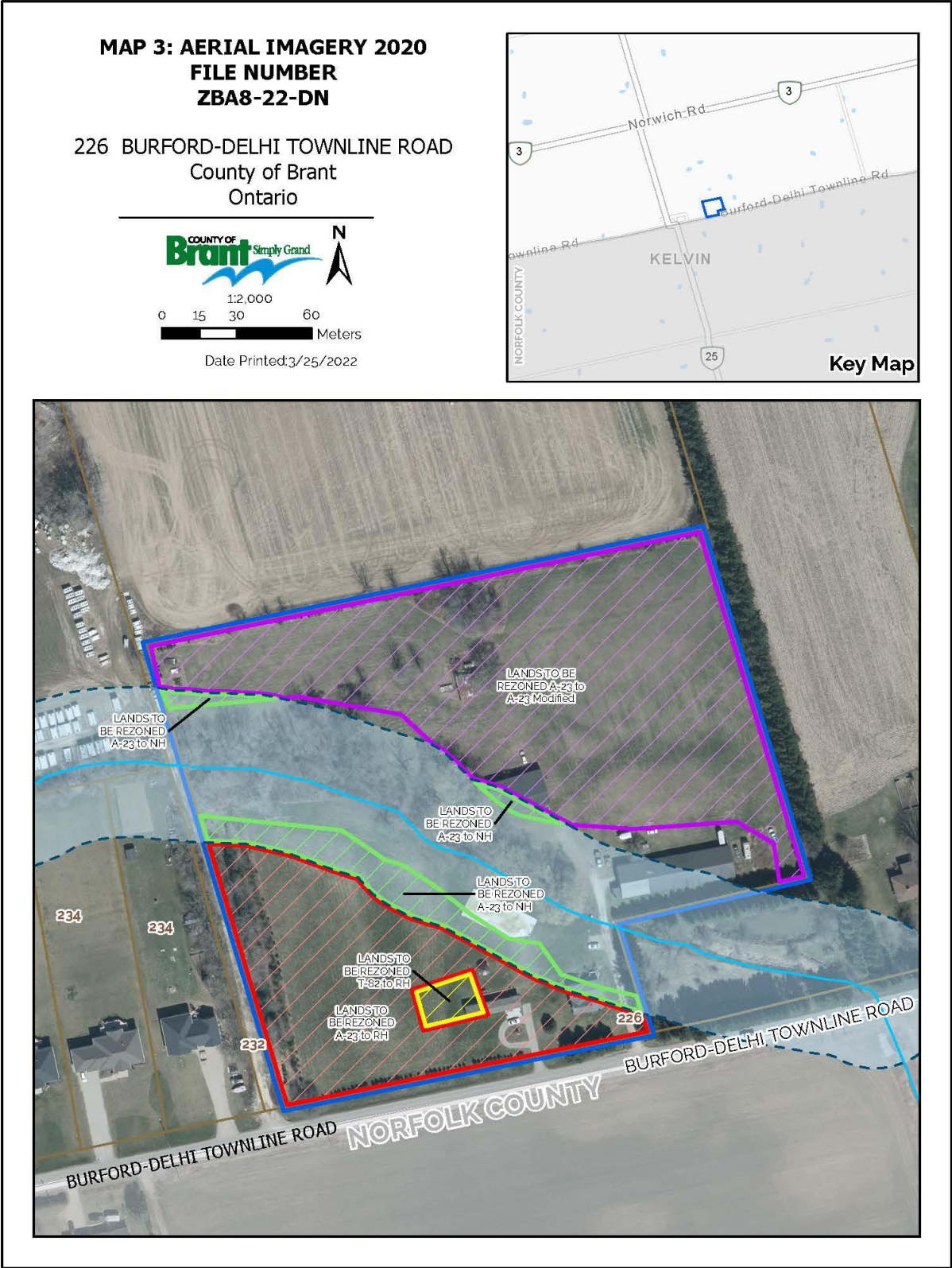
Attachment 1 - Zoning Map



Attachment 2 - Official Plan Map



Attachment 3 - Air Photo



Attachment 4 – Proposed Site Development Plan

