



Planning and Development Committee Report

To: To the Chair and Members of the Planning and Development Committee
From: Dan Namisniak, Planner
Date: December 6, 2022
Report: RPT-0322-22
Subject: ZBA30-22-DN - Zoning By-Law Amendment Application
Purpose: **Recommendation report** for Approval

Recommendation

That Zoning By-Law Amendment Application ZBA30-22-DN from J.H. Cohoon Engineering, Agent on behalf of 1386250 Ontario Inc (D.W. Cooper Contracting Ltd.), Applicant/ Owner of the subject lands known as Part John Westbrook Grant Brantford Parts 1, 2, 3, 2R-1581; Save & Except Part 1, 2, 3, 2R-5392, Part 1 2R7498, County of Brant, in the geographic Township of Brantford, municipally known as 84 Old Onondaga Road East proposing to change the zoning to facilitate the expansion of employment uses towards the rear of the property to include a *Transport/ Truck Terminal, Contractor's Yard, Open Storage*, be approved, with site Specific Provisions to include the operation of *Aggregate Recycling Facility* related uses accessory to the primary use:

1. Change a portion of the Agricultural (A) Zone on the subject lands to Employment – Heavy Industrial (M3-30) Zone;
2. Change a portion of the Natural Heritage (NH) Zone to Employment - Heavy Industrial (M3-30) Zone;
3. Change a portion of the Agricultural (A) Zone on the subject lands to Natural Heritage (NH); and

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

- The application will facilitate compatible, infill development of employment uses within the Primary Urban Settlement Area of Cainsville.
- The application will result in the protection and restoration of the Natural Heritage System as identified and recommended in the Ecological Management Plan and implemented further through Site Plan Control.
- 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

Undertaking actions that elevate customer service to those we serve.

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 application to amend the County of Brant Zoning By-Law 61-16.

Zoning By-Law Amendment Application **ZBA30-22-DN** proposes to change the zoning on the subject lands as follows and as identified on the attached Zoning By-Law Mapping,

1. Change a portion of the Agricultural (A) Zone on the subject lands to Employment – Heavy Industrial (M3-30) Zone;
2. Change a portion of the Natural Heritage (NH) Zone to Employment - Heavy Industrial (M3-30) Zone; and,
3. Change a portion of the Agricultural (A) Zone on the subject lands to Natural Heritage (NH),

This application is required to facilitate the expansion of the Heavy Industrial (M3) zone to permit the operation of a *Transport/ Truck Terminal, Contractor's Yard* and *Open Storage*. The Site Specific Provision is included to permit the operation of *Aggregate Recycling Facility* related uses.

Aggregate Recycling Facility related uses include use of the premises for the recycling, by way of crushing, grinding, blending, and screening, of nonhazardous aggregate by-products such as concrete, asphalt, bricks, glass, and ceramics. This use includes the storage/stockpiling of incoming material awaiting processing and the storage/stockpiling of processed material awaiting shipment. This use does not include a central mixing, batching or any other facility/plant to produce asphalt and concrete. *Aggregate Recycling Facility* related uses are expected to occur outdoors, a maximum of two (2) days in one occurrence each calendar year by a licensed contractor in keeping with the Ministry of Environment, Conservation and Parks (MECP) Environmental Noise Guidelines.

The modifications proposed to the Natural Heritage (NH) Zone reflect the conclusions outlined in the Environmental Impact Study (EIS) prepared by Terrastory Environmental Consulting.

The Environmental Impact Study provides recommendations for protective buffers to be maintained from identified woodlots, Fairchilds Creek and the unnamed tributary to Fairchilds Creek. The Environmental Impact Study includes a number of technical mitigation measures related to the operation of the proposed Heavy Industrial uses related to the location of stock pile material and fuel. An Ecological Implementation Plan has also been prepared demonstrating how protection and restoration of the Natural Heritage System is being achieved.

These recommendations and technical measures will be implemented as part of the Zoning By-

Law Mapping update and in detail as part of the Site Plan Control Application.

The Zoning By-Law Application submission consisted of the following supporting documents:

- Planning Justification Report
- Site Plan
- Archaeological Assessment (Stage 1-4)
- Environmental Impact Study (EIS)
- Ecological Management Plan
- Stormwater Management Report
- Slope Assessment

Detailed design and technical review of the development of the subject lands will be facilitated through the Site Plan Control process assessing access, landscaping, grading, drainage, lighting etc.

No concerns were raised as part of the public or technical circulation of this Zoning By-Law Amendment Application.

The planning analysis focuses on literature review 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.

For the reasons outlined in this report, it is my professional recommendation that Zoning By-Law Amendment Application **ZBA30-22-DN** be **Approved**.

Location / Existing Conditions

The subject lands are located along the north side of Old Onondaga Road East, west of Brant County Road #18 within the boundary of the Primary Settlement Area of Cainsville.

The subject lands are approximately 14.5 hectares (35.8 acres) in size with a frontage of approximately 127 meters (417 feet) on Old Onondaga Road East. The lands are irregular in shape.

The site is located within the Primary Settlement Area of Cainsville within the Employment designation and is generally surrounded by Employment uses.

Fairchild Creek is located immediately to the north of the subject site. A small unnamed creek is also located on the north section of the property. The lands are partially within the regulation limit of Grand River Conservation Authority (GRCA) due to the presence of the natural heritage features.

The subject lands are privately serviced by municipal water, sanitary and storm.

Presently, the front portion of the subject lands are used for temporary parking and servicing of the transport trucks. A separate parking lot is located at the front of the property. Additionally, the property is used for stockpiling construction equipment and landscaping materials associated with the contractor's yard within the current limits of the Heavy Industrial (M3) zone.

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 – 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.

Employment

Section 1.3.1 of the *Provincial Policy Statement* outlines that Planning Authorities shall promote economic development and competitiveness by:

- a) Providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs;
- b) Providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- c) Facilitating the conditions for economic investment by identifying strategic sites for investment, monitoring the availability and suitability of employment sites, including market-ready sites, and seeking to address potential barriers to investment;
 - ***The application will allow for the expansion of existing Heavy Industrial uses in a Primary Settlement area within the Employment Lands designation.***

Section 1.3.2.1 of the *Provincial Policy Statement* identifies that Planning Authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.

- ***The subject lands are serviced by private water, sanitary and stormwater.***
- ***Detailed design will ensure for adequate area to maintain private infrastructure.***
- ***The subject lands have access to a road network within close proximity to the major highway and surrounding settlement areas.***

Natural Heritage

Section 2.1.3 of the *Provincial Policy Statement* states that Natural Heritage systems shall be identified in, recognizing that natural heritage systems will vary in size and form in settlement areas, rural areas, and prime agricultural areas.

- ***The subject lands contain Natural Heritage system features such as woodlots, named and unnamed tributaries, slope erosion hazards located within the Primary Urban Settlement Area of Cainsville.***

Section 2.1.2 of the *Provincial Policy Statement* states that the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing

linkages between and among natural heritage features and areas, surface water features and ground water features.

- ***The Environmental Impact Study completed as part of this application include recommendations for an Ecological Management Plan which includes a restoration buffer along banks of the unnamed tributary consisting of new plantings of trees, shrubs, naturalized seed and an erosion control blanket.***
- ***The Environmental Impact Study also concludes that the proposed stockpiling and soil storage plan addresses relevant natural heritage provisions of the Provincial Policy Statement as no negative impacts to any Provincial Policy Statement significant natural feature are anticipated given the 10 m dripline setback to the Significant Woodland and Significant Valleyland and 15 m setback to the Tributary of Fairchild Creek and other recommended mitigation measures incorporated into this study are implemented.***

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.

Employment

Section 2.2.5 of the *Growth Plan* outlines ways to promote economic development and competitiveness:

- a) Making more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities;
- b) Ensuring the availability of sufficient land, in appropriate locations, for a variety of employment to accommodate forecasted employment growth to the horizon of this Plan;
- d) Integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment.

- ***The application will create opportunity for a range of Light Industrial uses and increased employment, as permitted within Zoning By-Law 61-16, Section 11.***

Natural Heritage

Section 2.2.5 of the *Growth Plan* states that the Natural Heritage System for the Growth Plan excludes lands within settlement area boundaries that were approved and in effect as of July 1, 2017.

- ***The subject lands are located within the Primary Urban Settlement Area of Cainsville, established as part of the current Official Plan (2012).***

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 'Employment Lands' and 'Natural Heritage' being located within the Primary Urban Settlement Area of Cainsville.

Employment

Section 3.12.2 of the County of Brant Official Plan identifies that uses permitted within the Employment lands designation shall be limited to prestige, light and heavy industrial uses such as manufacturing and processing plants, fuel storage, warehouses, public self-storage, truck or transportation terminals, railway uses and motor vehicle body shops, which may involve bulk open storage of goods or materials. Offices, medical/dental clinics, laboratories and research facilities, communication facilities, printing and publishing plants shall also be permitted as a primary form of employment.

- ***The range of uses permitted within the Light Industrial (M3) zone conform to the uses outlined within section 3.12.2 of the County of Brant Official Plan.***
- ***Aggregate Recycling Facility related uses are proposed to operate as an accessory use to the primary uses with limited frequency.***
- ***Further development of the site will be subject to detailed technical review as part of a Site Plan Control Application and will ensure the visual design of the site reflects the high visible site location.***

Natural Heritage

Section 2.3.2.1 of the County of Brant Official Plan requires the identification, significance, and delineation of natural heritage features and areas shall also be determined and/or refined by the preparation of a detailed Environmental Impact Study (EIS).

- ***The identified Natural Heritage System reflects the presence of “Hazardous Lands and Hazardous Sites” (i.e., floodplain and steep slopes) along the valleyland of Fairchild Creek.***
- ***The County’s Natural Heritage System is also mapped along an unnamed tributary of Fairchild Creek which flows eastward through the Subject Property in reflection of steep slopes. “Woodlands and Vegetation” are also mapped on Schedule C-4 within the Fairchild Creek valleyland.***

Section 2.3.2.2.e of the County of Brant Official Plan includes policies for proposals for development and site alteration, within natural heritage features and adjacent to natural heritage features where 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.

- ***An Environmental Impact Study (EIS) was prepared by Terrastory Environmental Consulting to review the potential impacts to the NHS and “Other Natural Heritage Features and Areas” that are present on the Subject Property.***
- ***The Environmental Study Includes assessment of Hazardous Lands, potential habitat for endangered species, candidate SWH, Woodlands and Vegetation, Watercourses / Other Surface Water Features, and Fish Habitat.***
- ***Provided that Terrastory’s recommended mitigation measures are carried out in full, no negative impacts are anticipated to any significant natural heritage/feature area identified.***

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.

- ***This property is located within an Intake protection Zone 3 (IPZ-3) with an associated vulnerability score of 6. As such, the proposed development activities are not Significant Drinking Water Threats within this boundary and no Part IV policies of the Grand River SPP are applicable at this time.***
- ***However, further consideration and mitigation measures related to specific uses and use of salt associated with winter maintenance schedules may be reviewed at the time of Site Plan Control Application.***

County of Brant Zoning By-Law 61-16

Zoning By-law 61-16 identifies that the subject lands currently contain portions zoned as follows:

- Agricultural 'A';
- Heavy Industrial 'M3'; and
- Natural Heritage 'NH'

This application would result in the following zone changes:

Current Zone	Proposed Zone
Agriculture (A)	to Employment – Heavy Industrial (M3-30) Zone; <ul style="list-style-type: none">- To permit all uses within the M3 zone and <i>Aggregate Recycling Facility</i> related uses.
Natural Heritage (NH)	to Employment – Heavy Industrial (M3-30) Zone; <ul style="list-style-type: none">- To permit all uses within the M3 zone and <i>Aggregate Recycling Facility</i> related uses.- Based on conclusions outlined in the Environmental Impact Study (EIS) prepared by Terrastory Environmental Consulting.
Agriculture (A)	to Natural Heritage (NH) <ul style="list-style-type: none">- To reflect the conclusions outlined in the Environmental Impact Study (EIS) prepared by Terrastory Environmental Consulting.

Stormwater Management Facility:

Zoning By-Law Section 4.40.c list a Stormwater Management Facility as a permitted use in all zones.

Employment – Heavy Industrial (M3-30) Zone:

- *Related Aggregate Recycling Facility uses include use of the premises for the recycling, by way of crushing, grinding, blending, and screening, of nonhazardous aggregate by-products such as concrete, asphalt, bricks, glass, and ceramics.*
- *This use includes the storage/stockpiling of incoming material awaiting processing and the storage/stockpiling of processed material awaiting shipment.*
- *This use does not include a central mixing, batching or any other facility/plant for the production of asphalt and concrete.*
- *Aggregate Recycling Facility related uses are expected to occur, outdoors, a maximum of two (2) days in one occurrence each calendar year by a licensed contractor in keeping with the Ministry of Environment, Conservation and Parks (MECP) Environmental Noise Guidelines.*

Proposed Natural Heritage (NH) zone:

- *The modifications proposed to the Natural Heritage (NH) Zone reflect the conclusions outlined in the Environmental Impact Study (EIS) prepared by Terrastory Environmental Consulting.*
- *The Environmental Impact Study provides recommendations for protective buffers to be maintained from identified woodlots, Fairchilds Creek and the unnamed tributary to Fairchilds Creek.*
- *The Environmental Impact Study includes a number of technical mitigation measures related to the operation of the proposed Heavy Industrial uses.*
- *An Ecological Implementation Plan has also been prepared demonstrating how protection and restoration of the Natural Heritage System is being achieved.*
- *These recommendations and technical measures will be implemented as part of this Zoning By-Law Mapping update and in detail as part of the Site Plan Control Application.*

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:

Development Engineering Division:

- The Development Engineering Division will be providing additional technical input with respect to stormwater management, drainage and Public Works Permits, etc. through future planning applications, which are required for the development of the subject lands.

Environmental Planning:

- Environmental Planning staff have reviewed the proposal to rezone the subject lands from Agricultural to Employment, in which a reduction in the Natural Heritage Zone is proposed. Staff reviewed the Environmental Impact Study (EIS) and Ecological Management Plan (EMP) prepared by Terrastory Environmental Consulting in February 2022 and Zoning By-Law Amendment prepared by the Angrish Group.
- The following to be included in the Zoning By-Law Amendment and/or implemented as part of the Site Plan Control Application process:
 - Stormwater management pond may be permitted provided that it is at least 15 metres from all watercourses and wetlands.
 - All fuels, construction materials and other deleterious substances must be a minimum of 30 metres from valleylands and woodlot.
 - Based on the EIS, as part of the Site Plan Control Submission, a detailed tree inventory and compensation plan, which includes a bat habitat assessment for any trees proposed for removal (e.g. hedgerow). If endangered, written correspondence from MECP will be required. A minimum 2:1 replanting ratio is required.
- It is the understanding of staff that GRCA does not have any concerns regarding reduction in the erosion hazard.

Grand River Conservation Authority:

- The Grand River Conservation Authority (GRCA) has no objection to the proposed zoning bylaw amendment.

Economic Development:

- The Economic Development and Tourism Division supports the proposed rezoning of 84 Old Onondaga Rd, Cainsville.
- The zoning that is achieved by this application is supported by the County of Brant Economic Development Strategy and Action Plan, Specifically Pillar 2: Driving Investment to the County of Brant, Objective 2: to have a diverse inventory of shovel ready land, office and buildings available for business investment.
- As well within the County of Brant's Strategic Plan: Strategic Plan Priority 3: Economic Resilience - Facilitate the growth of a diversified local economy, Action 3.3.1 Improve the current "live and work" in the County ratio to 40:60 by the end of 2022. (40% live and work in the County, while 60% live in the County and work outside the County).

Six Nations:

- Comments from the Six Nations of the Grand River, have been summarized below and included in full as an attachment to this Report.
 - Based on the information presently available, Six Nations of the Grand River oppose

the proponent's Zoning By-Law Amendment Application.

- Six Nations of the Grand River particularly disagree with Natural Heritage areas being rezoned to Heavy Industrial.
- Concerns about species not currently at-risk or endangered, highlighting the wild turkeys on the property who "routinely roosted in the meadow and successfully nested within the Study Area". Like other wildlife, their habitat should be protected.
- Haudenosaunee have hunting rights that extend to the subject property. We particularly value the turkey for its meat and sometimes use its feathers for ceremonial purposes.
- Concerns about the reliability of the data used to determine ground water conditions and erosion management. The slope survey was conducted on a day when temperatures were below freezing. As freezing temperatures prevent seepage, it's hardly surprising the report determined "No groundwater seepage was observed within the slope during our assessment." Yet that information was used in determining the slope's stability. It is questioned why the hydrology in the SWM Report relied on desktop data.

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

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

Public Considerations

Notice of this Application has been circulated to all property owners within 125 metres of the subject lands in accordance with the *Planning Act* as follows:

- Notice of Complete Application – August 10, 2022
- Notice of the *September 6, 2022 Public Information Meeting* - August 17, 2022
 - *84 Shaver Road* – Questions of clarification regarding development around the Natural Heritage System.
- Notice of the *December 6, 2022 Public Recommendation Meeting* – November 16, 2022
- A site visit along with the posting of the Public Notice sign was completed on November 16, 2022

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

Conclusions and Recommendations

Zoning By-Law Amendment Application **ZBA30-22-DN** aims to facilitate the expansion of the Heavy Industrial (M3) zone to permit the operation of a *Transport/ Truck Terminal, Contractor's Yard and Open Storage*. The Site Specific Provision is included to permit the operation of *Aggregate Recycling Facility* related uses.

Aggregate Recycling Facility related uses are expected to occur a maximum of two (2) days in

one occurrence each calendar year by a licensed contractor in keeping with the Ministry of Environment, Conservation and Parks (MECP) Environmental Noise Guidelines.

Through the completion of the Environmental Impact Study, the Natural Heritage System has been identified and assessed with technical mitigation measures and Ecological Implementation Plan prepared demonstrating how protection and restoration of the Natural Heritage System is being achieved.

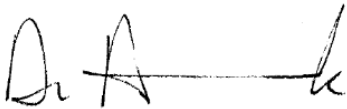
These recommendations and technical measures will be implemented as part of the Zoning By-Law Mapping update and in detail as part of the Site Plan Control Application.

Adequate public notice and technical circulation of this application were provided with no concerns identified.

Based on the analysis above, I confirm that the appropriate measures have been taken to ensure that the rezoning is consistent with the *Provincial Policy Statement*, conforms to the Growth Plan and County of Brant Official Plan and meets the intent of the Zoning By-Law 61-16.

It is my professional opinion that the request is, appropriate and represents good planning and therefore I recommend that the Minor Zoning By-Law Amendment Application **ZBA30-22-DN** be **Approved.**

Prepared by:



Dan Namisniak, BA, CPT, MCIP, RPP
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 Map
2. Official Plan Map
3. Aerial Map
4. Proposed Zoning Map
5. Proposed Ecological Management Plan
6. Proposed EIS Technical Mitigation Recommendations
7. Comments – Six Nations of the Grand River

Copy to

1. Pam Duesling, General Manager of Development Services
2. Mat Vaughan, Director of Development Planning
3. Alysha Dyjach, Clerk and Director of Council Services
4. Alyssa Seitz, Planning Administrative Assistant
5. Applicant/Agent

File # ZBA30-22-DN

In adopting this report, is a By-Law or agreement required?

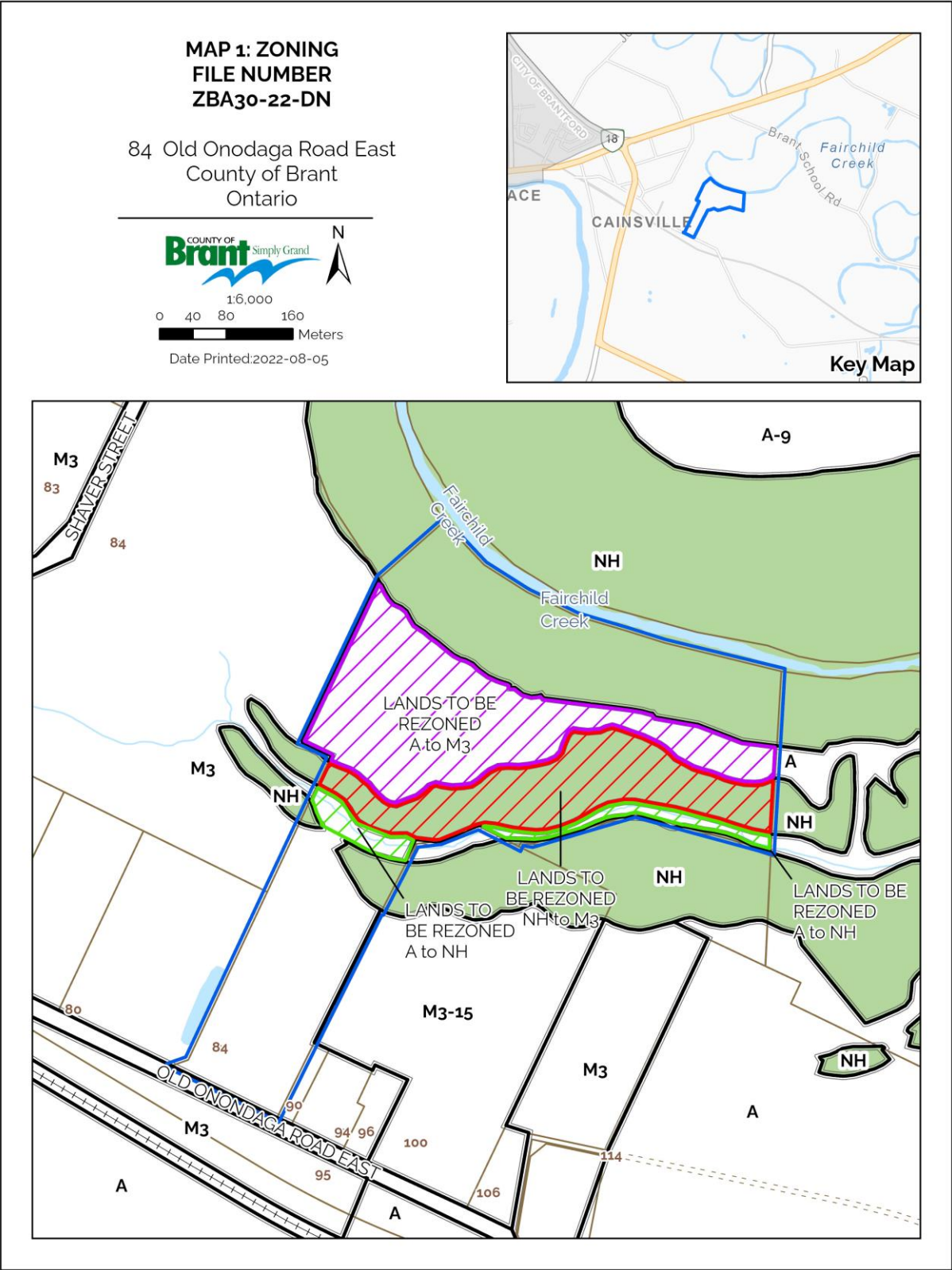
If so, it should be referenced in the recommendation section.

By-Law required? (Yes)

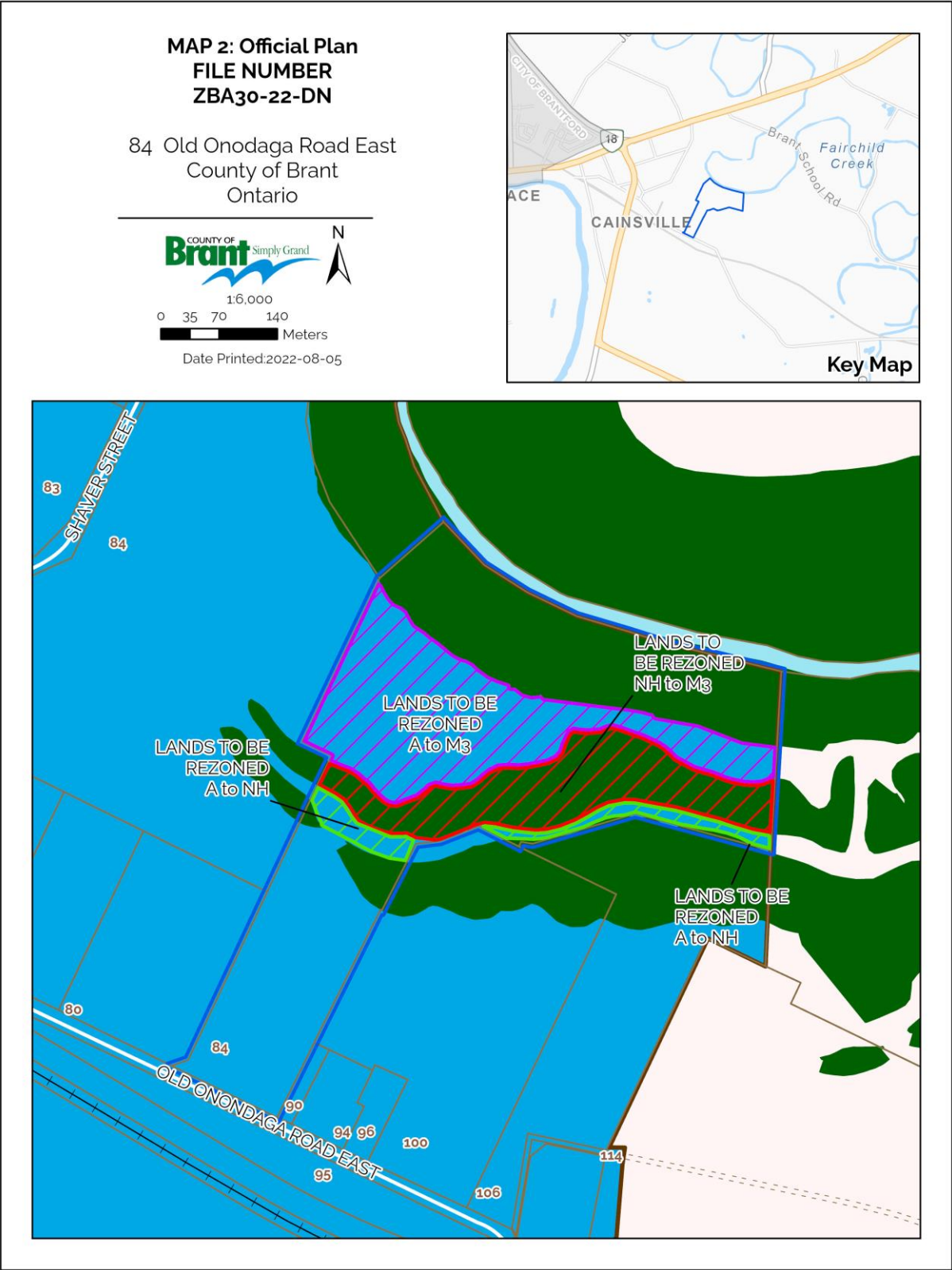
Agreement(s) or other documents to be signed by Mayor and /or Clerk? (No)

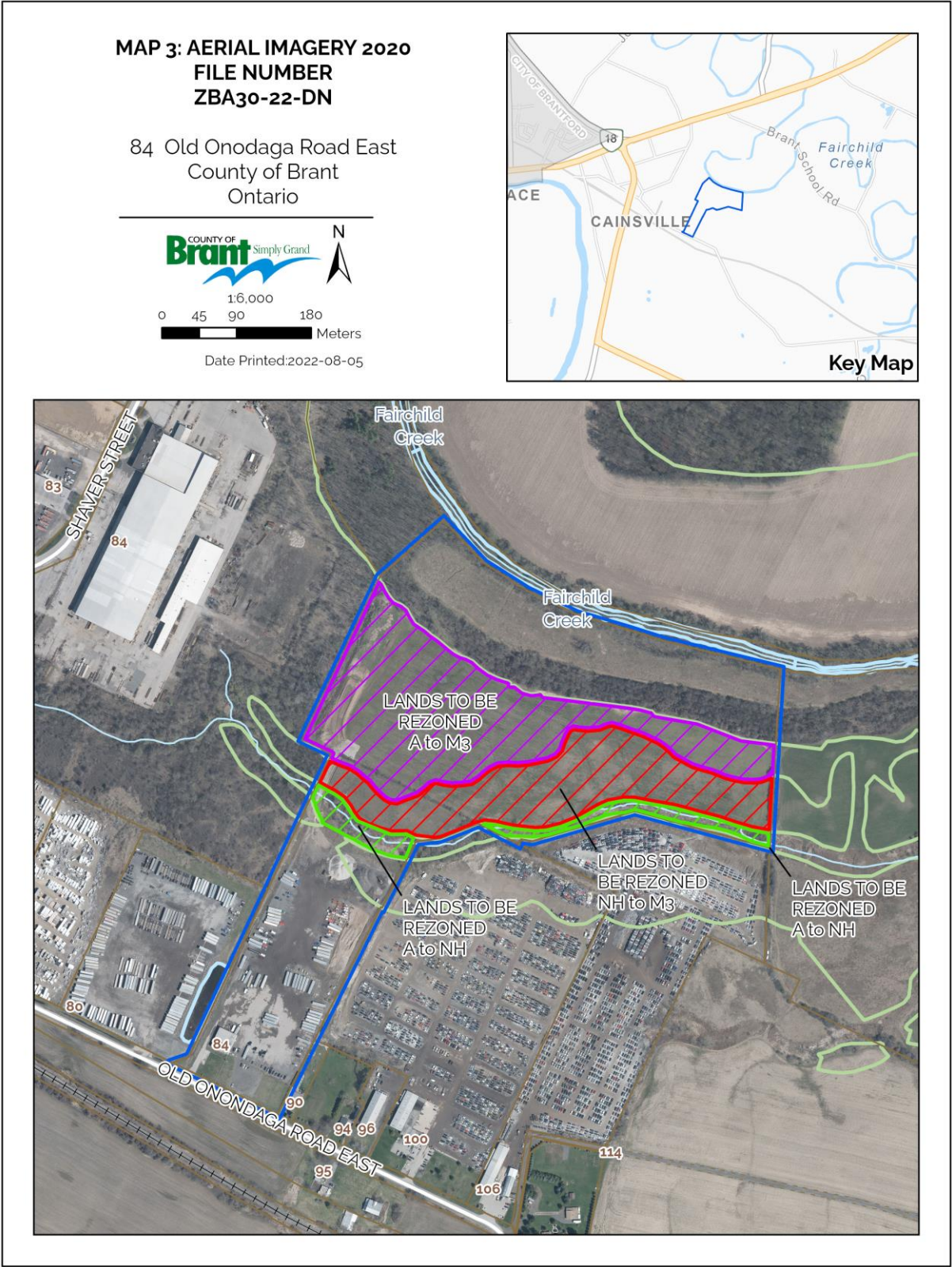
Is the necessary by-law or agreement being sent concurrently to Council? (Yes)

Attachment 1 - Zoning Map



Attachment 2 - Official Plan Map





Attachment 4 – Proposed Zoning Map

