



County of Brant – Planning and Development Report

To: To the Chair and Members of the Planning and Development Committee
From: Shannon Labelle, Planner
Date: January 10, 2023
Subject: RPT-0535-22
Zoning By-Law Amendment Application ZBA41/22/SL
440 German School Road, Geographic Township of South Dumfries
Purpose: **Recommendation Report for Approval**

That Application ZBA41/22/SL from Kate Wills, Agent on behalf of 1778206 Ontario Inc – Kris Martin, Owner of lands legally known as Concession 1 Part Lot 17 Part Lot 18, municipally known as 440 German School Road, Geographic Township of South Dumfries, County of Brant, proposing to rezone the retained lands from Agriculture (A) to Agriculture (A) with site specific provision 9 (A-9), in order to prohibit a residential use, be approved.

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.

Key Strategic Priority

Sustainable and managed growth.

Financial Considerations

None.

Executive Summary / Proposal

The purpose of this report is to provide Council and the Public with information from the applicants and staff regarding the details of an application to amend the County of Brant Zoning By-Law 61-16.

The proposed rezoning is required as a condition of approved consent application B22-22-RC. The consent application B22-22-RC went before the Committee of Adjustment on September 15th, 2022 and was conditionally approved. The applicant is proposing to rezone the retained lands from Agriculture (A) to Agriculture (A) with site specific provision 9 (A-9) in order to prohibit a residential use. The proposal is proceeding straight to recommendation.

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),

Brant County Official Plan (2012) and Zoning By-Law 61-16, consultation with departments and discussions with both the agent/public. As outlined in this report, I am of the opinion the proposal represents good planning and am recommending approval of the application.

Location

The subject lands are located on the south side of German School Road, and to the east of Clarke Road, having frontage along the south side of German School Road, and some frontage along the east side of Clarke Road. The subject lands are irregular in shape, having an approximate frontage of 825 metres (2,706.7 feet), and an area of approximately 107.6 hectares (265.9 acres).

To the north of the subject lands are single detached dwellings with associated accessory structures, and agricultural lands. To the east and south of the subject lands are agricultural lands and associated uses. To the west of the subject lands are single detached dwellings, and agricultural lands.

Based on aerial imagery, and a site visit to the property by County Staff on August 31st, 2022, there did not appear to be any livestock barns on the subject lands, or within 500 metres of the proposed severance. The subject lands are currently occupied by a single detached dwelling and seven (7) accessory buildings. Two accessory building will be included in the severance, of the five remaining, one is to be removed, for a total of four accessory buildings to remain with the retained lands.

The subject lands are privately serviced.

Report

Planning Act R.S.O (1990)

Section 2(a-s) of the *Planning Act* outlines matters of provincial interest that decision making bodies shall have regard for.

- The application has regard for:
 - Section 2(b) the protection of the agricultural resources of the Province.

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

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.

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

The retained lands are expected to have an area of approximately 106.7 hectares (263.7 acres) and will be farmed as part of a larger farming operation located at 660 Governors Road East.

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

The retained lands will continue to be farmed as part of a larger farming operation.

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

The retained lands will be farmed as part of a larger farming operation.

Section 2.3.4.1 of the PPS describes how the creation of lots in prime agricultural areas is discouraged and may only be permitted for:

- (a) *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations
- (b) *agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*
- (c) a *residence surplus to a farming operation* as a result of farm consolidation, 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 are surplus to the owner's needs and are proposed to have an area of approximately 0.9 hectares (2.2 acres), which is of a minimum size to accommodate all proposed private servicing. The retained parcel is approximately 106.7 hectares (263.7 acres) and is to be rezoned to prohibit a dwelling.

Section 2.3.4.3 of the PPS describes how the creation of new residential lots in prime agricultural areas is not permitted except in accordance with policy 2.3.4.1(c).

A surplus farm dwelling severance is being proposed which is in accordance with policy 2.3.4.1(c) of the PPS. The retained lands will be rezoned to prohibit a residential use. The severed lot is occupied by an existing habitable dwelling that is surplus to the owner's needs.

Section 6.0 includes the definition for "residence surplus to a farming operation"

- means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

The existing dwelling has been rendered surplus as a result of farm consolidation with an existing farming operation located at 660 Governors Road East, which are to be farmed as part of the larger farming operation located at 660 Governors Road East, which is owned and operated by 1778206 Ontario Inc.

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 located at 660 Governor's Road East in the County of Brant.***

- ***The proposed lot established for the surplus farm dwelling is limited to the minimum size needed to accommodate appropriate sewage and water services.***
- ***No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling through the minor zoning amendment process as a condition of severance.***
- ***The dwelling is surplus to the owner's needs and the retained farm will be consolidated with the owner's other farming operation.***

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.

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 106.7 hectares (263.7 acres) and will be farmed as part of a larger farming operation.

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.

I am of the professional opinion that this application conforms to 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 located at 660 Governor's Road East, Brant.***
- ***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 a larger farming operation located 660 Governor's Road East, Brant which has one dwelling existing on the property.***

Source Water Protection

Source 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 other, 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 Official Plan (2012)

The County of Brant Official Plan sets out the goals, objectives and policies to guide development within the municipality. The Planning Act requires that all decisions that affect a planning matter shall 'conform to' the local Municipal Policies, including but not limited to the County of Brant Official Plan.

The subject lands are designated Agriculture and Natural Heritage, within Appendix A of the Official Plan, and Woodlands and Vegetation, within Appendix C of the Official Plan. The lands to be severed are designated as Agriculture.

Section 1.11.2.6.2(a) of the County of Brant Official Plan recognizes the agricultural industry as an important component of the County's economic base and as a contributor to the County's rural character.

To facilitate the surplus dwelling severance, no actively farmed land has been removed. The retained lands will continue to be farmed as part of a larger farming operation.

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.

Section 1.11.2.6.2(c) of the County of Brant Official Plan speaks to protecting the right to farm based on normal farm practices.

The retained lands are being farmed as part of a larger farming operation and no actively farmed lands were removed to facilitate the surplus farm dwelling severance.

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 retained lands will need to be rezoned to prohibit a dwelling.

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 1.11.2.6.2(j) of the County of Brant Official Plan ensures the protection of agricultural operations through the incorporation of Minimum Distance Separation Formulae in order to prevent adverse effects from odour.

Within 500 metres of the proposed lot, no livestock operations were identified. This was confirmed through aerial imagery and a site visit by County Staff to the subject lands on August 31st, 2022.

Section 1.11.2.6.2(k) of the County of Brant Official Plan speaks to permitting farming operations that will help the County as a whole adjust to changing economic and technological conditions.

To facilitate the severance, the minimum amount of land was severed. All actively farmed land will continue to be farmed as part of a larger farming operation.

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 located at 660 Governor's Road East.

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 retained lands will be rezoned to prohibit a dwelling. There is an existing dwelling on the proposed lot.

3.3.2.1(a) of the County of Brant Official Plan speaks to Minimum Distance Separation (MDS) Formulae be used to establish appropriate standards for separating proposed uses from existing livestock facilities (MDS I) and for applying appropriate standards for the separation of new or expanding livestock facilities from existing adjacent uses (MDS II). The County Zoning Bylaw shall establish separation distances between livestock operations (to be defined within the By-Law) and non-agricultural land uses in accordance with the Minimum Distance Separation Formulae.

The subject lands do not have any livestock facilities. If any livestock facilities were to be constructed, they would be required to satisfy MDS.

Section 6.8.2.1(a) of the County of Brant Official Plan speaks to consents for the division 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.

The applicants are proposing to sever the surplus farm dwelling, and through a condition of severance the retained lands are expected to be rezoned 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, the severed lands are outside of an aggregate resource area, and the lands to be severed are designated Agriculture.

Section 6.8.2.1(c)(iv) of the County of Brant Official Plan speaks to previous or current farm

consolidations rendering a residence surplus to a farming operation, a consent may be considered to sever the surplus farm dwelling from the farm unit, provided that the following conditions are met:

- i. The lot severed for non-farm use is large enough to accommodate the use and on-site servicing, while ensuring that as little acreage as possible is taken out of productive agricultural land and shall generally be less than 0.6 hectares in size;
- ii. The Minimum Distance Separation Formulae can be met with the formulae applied as if the property was zoned or designated as a residential lot
- iii. The lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and
- iv. The remnant parcel of farmland created by the severance is rezoned to prohibit future construction of a new dwelling

The severed lot can accommodate private servicing and is 0.9 hectares (2.2 acres) in size. A Minimum Distance Separation report was not required, as there are no livestock facilities within 500 metres of the proposed lot. No additional dwelling units are to be added. The retained lands will be rezoned as a condition of severance to prohibit a residential use.

Section 6.8.2.1(e)(ii) of the County of Brant Official Plan speaks to consent applications of farm parcels smaller than 40 hectares, and that the lot remaining shall be consistent with the policy for the surplus farm dwellings, and be generally less than 0.6 hectares in size unless suitable justification can be provided for a larger lot.

The severed lands are 0.9 hectares (2.2 acres) in size. The larger size is to accommodate the accessory structure, the increased street setback to the dwelling, and to include the mature row of trees along the east.

I am of the professional opinion that this application conforms to the County of Brant Official Plan (2012) for the following reasons:

- ***No new residential building lots will be created as the retained lands are to be rezoned to prohibit a dwelling through the minor zoning amendment process as a condition of severance.***
- ***The retained lands are expected to be farmed as part of a larger farming operation located at 660 Governor's Road East, in the County of Brant.***
- ***The severed and retained parcels have frontage along German School Road.***
- ***The Minimum Distance Separation Formulae is able to be met***
- ***The severed parcel is large enough to accommodate private servicing.***

County of Brant Zoning By-Law 61-16

The subject lands are zoned as Agriculture (A) and Natural Heritage (NH) within the County of Brant Zoning By-Law 61-16. The lands subject to the severance are not within the Natural Heritage (NH) zone. The portion of the lands that are zoned Natural Heritage (NH) will remain as 'NH'.

Section 6.1, Table 6.1.1 of the County of Brant Zoning By-Law speaks to permitted uses on lands zoned as Agriculture. Permitted uses include but are not limited to the following:

- Agricultural Use
- Agriculture-Related Use
- Cannabis Production and Processing

- Dwelling, Single Detached
- Farm Production Outlet
- Forestry Uses
- Greenhouse
- On-Farm Diversified Use
- Shipping Container

Section 6.2, Table 6.2.1 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	Requested – Severed Lands	Requested – Retained Lands
Lot Area, Minimum (ha)	40ha *0.6ha (or less) – surplus farm dwelling	0.9 ha surplus dwelling	106.7 ha
Lot Frontage, Minimum (m)	150m 20m – surplus farm dwelling	79.2 m	708.5 m
Street Setback, Minimum (m)	10m – dwelling 25m – all other uses	47m	>25m for all existing structures on retained lands.
Interior Side Yard Setback, Minimum (m)	4.0m – dwelling 15m – all other uses	4.0m	>15m for all existing structures on retained lands.
Rear Yard Setback, Minimum (m)	10m – dwelling 15m – all other uses	32.2m	>15m for all existing structures on retained lands
Lot Coverage, Maximum	30%	Approx. 10.6%	Approx. 0.2%

****The severed lands shall be limited to an appropriate size to accommodate private on-site servicing, being generally less than 0.6ha.***

Section 4.4, Table 4.4.1 of the County of Brant Zoning By-Law speaks to the development requirements for Accessory Structures. See chart below for analysis of development standards.

Development Standard	Required	Requested – Severed Lands
Lot coverage, Maximum	5 % of the total lot area	Approx. 4.8%
Street Setback, Minimum	10.0m	74.8m
Interior side yard and rear yard setback, Minimum (metres)	3.0m	4.0m – interior side yard setback 14.5 – rear yard setback
Structure Height, Maximum (metres)	7.0m	Existing.

Section 4.29 of the County of Brant Zoning By-law speaks to lot creation as a result of consent with respect to a dwelling surplus to a farming operation located within the Agricultural (A) Zone the following shall apply:

- a. The severed lands shall be limited to an appropriate size to accommodate private on-site servicing, being generally less than 0.6ha in size.
- b. Where the severed and retained lands have 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 required lot area and lot frontage;
- c. The dwelling on the severed lands shall only be considered surplus to the farming operation if it was constructed a minimum of 15 years prior to the date the application for the surplus farm dwelling consent is received;
- d. The dwelling must be considered habitable at the time of the application, as may be determined by the local municipal Chief Building Official;
- e. Minimum Distance Separation Guidelines shall apply to the severed lands as a Type B land use; and
- f. For any retained lands, being the lands containing the farming operation, a Special Exception Agricultural Zoning shall be applied to the lands on 'Schedule A' of this By-Law and such amendment to 'Schedule A' shall be made part of the granted consent without further notice being required provided the requirements of the Planning Act are met said special exception shall be applied to prohibit a dwelling unit on the retained lands and, provided there is a minimum of 20.0 metres of frontage and applied to grant relief required under Section 6.2 for minimum lot area and lot frontage.
- g. All other regulations of the By-Law shall apply.

I am of the professional opinion that this application complies with the County of Brant Zoning By-Law 61-16 for the following reasons:

- ***The severed lot is of an appropriate size to accommodate private on-site servicing.***
- ***The severed and retained lot have a minimum 20 metre frontage.***

- *The dwelling was constructed over 15 years prior to the date of the application being received.*
- *The Minimum Distance Separation Guidelines have been applied and are able to be met.*
- *The severed and retained parcels have frontage along German School Road.*
- *All other development provisions are being met.*

Interdepartmental Considerations

GIS

- No comments.

Environmental Planning

- No comments.

Development Engineering

- No comments.

Fire

- No concerns.

Grand River Conservation Authority (GRCA)

- No objection.

Mississaugas of the Credit First Nation (MCFN)

- No concerns.

The following departments/agencies did not provide any comments with regard to this application:

- Building
- Hydro One
- Bell Canada
- Enbridge Gas Inc
- Six Nations
- Operations
- Heritage
- Finance – Tax Department

Public Considerations

Staff are to visit the site for inspection on December 21st, 2022, and post the public notice sign in accordance with the *Planning Act*.

34 notices are to be mailed on December 21st, 2022.

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

Conclusions and Recommendations

The applicant is proposing to rezone the retained lands from Agriculture (A) to Agriculture (A) with site specific provision 9 (A-9) in order to prohibit a residential use, required as a condition of consent application B22-22-RC.

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

Prepared by:



Shannon Labelle, BA, M.Sc.

Planner

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

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

Attachments

- 1. Aerial Figure
- 2. Official Plan Figure
- 3. Zoning Figure
- 4. Site Development Plan
- 5. Site Photos
- 6. Draft By-Law

Copy to

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

File # ZBA41/22/SL

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

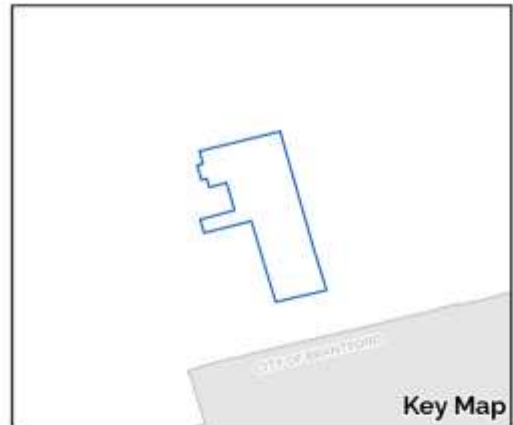
By-Law required	(Yes)
Agreement(s) or other documents to be signed by Mayor and /or Clerk	(No)
Is the necessary By-Law or agreement being sent concurrently to Council?	(Yes)

MAP 3: AERIAL IMAGERY 2022
FILE NUMBER
ZBA41-22-SL

440 GERMAN SCHOOL ROAD
County of Brant
Ontario



Date Printed: 2022-12-02



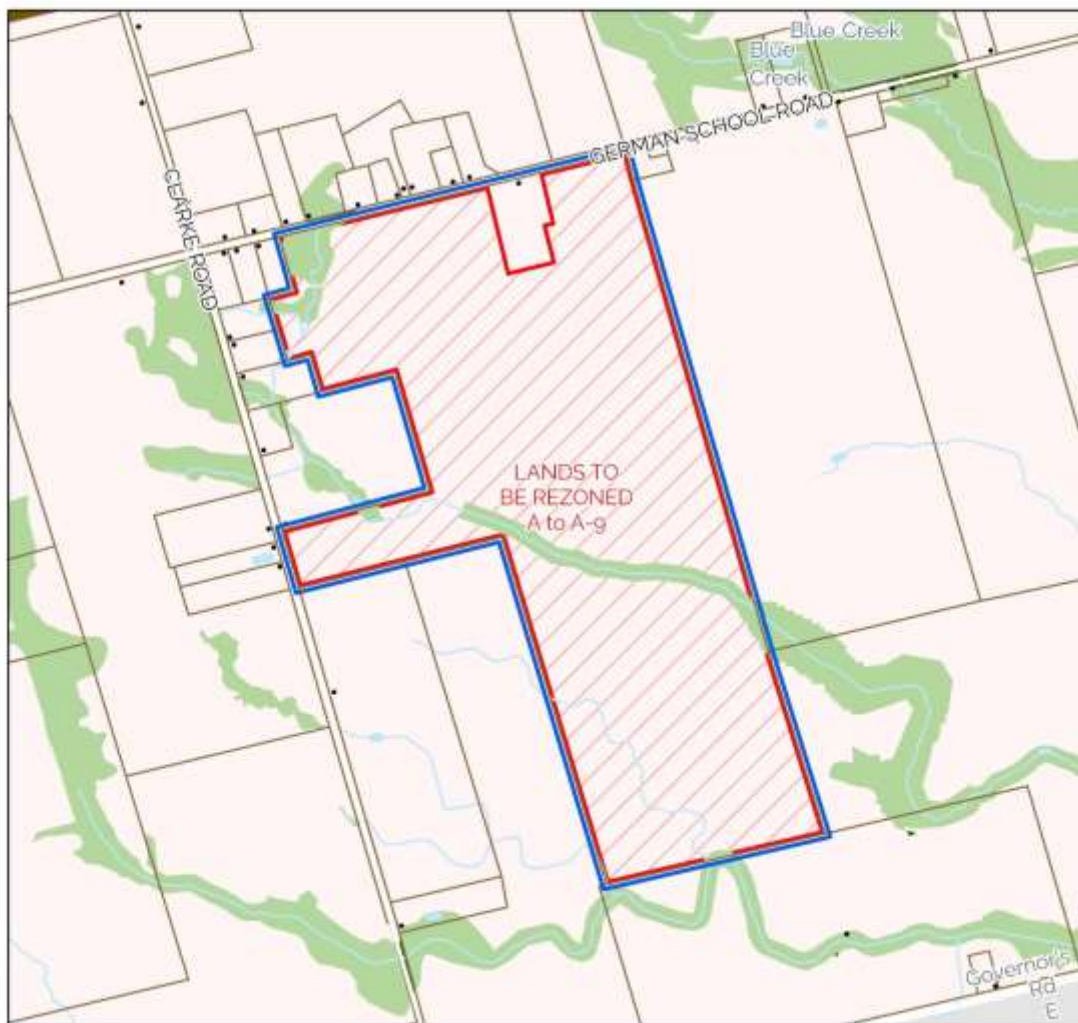
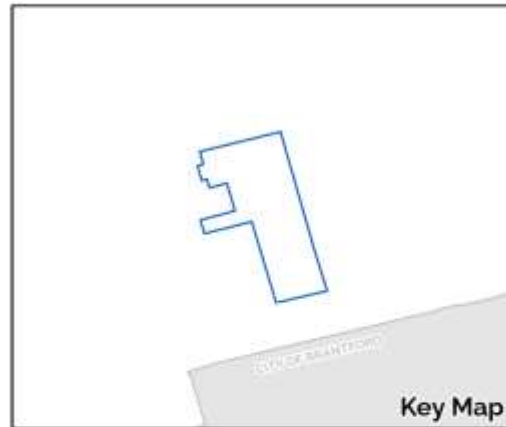
**MAP 2: Official Plan
FILE NUMBER
ZBA41-22-SL**

440 GERMAN SCHOOL ROAD
County of Brant
Ontario



1:14,000
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Date Printed 2022-12-02



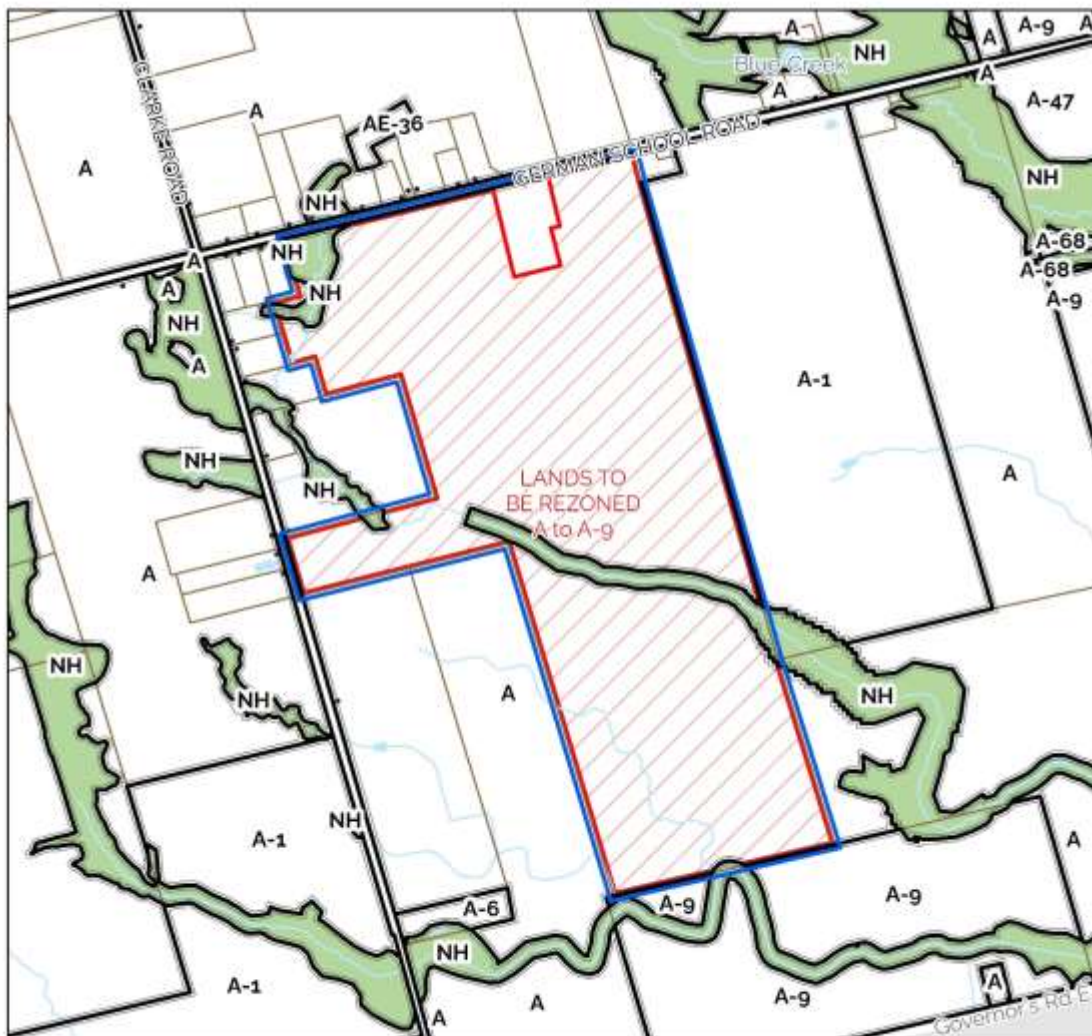
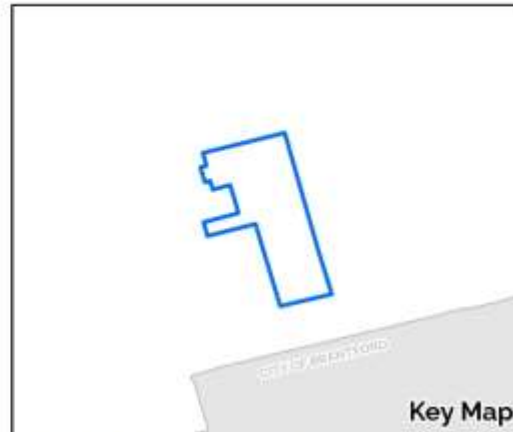
**MAP 1: ZONING
FILE NUMBER
ZBA41-22-SL**

440 GERMAN SCHOOL ROAD
County of Brant
Ontario



1:14,000
0 95 190 380 Meters

Date Printed: 2022-12-02



Site Plan



Site Photos

North



South



East



West

