



Planning and Development Committee Report

To: To the Chair and Members of the Planning and Development Committee
From: Dan Namisniak, Planner
Date: January 10, 2023
Report: RPT-0335-22
Subject: ZBA39-22-DN - Zoning By-Law Amendment Application
Purpose: For Approval.

Recommendation

That Zoning By-Law Amendment Application ZBA39-22-DN from George Ziotek, Agent, on behalf of Theresa and Tadeusz Zamroziewicz, Applicant/ Owner lands legally described as Part Lot 14-1 RSHR in the geographic Township of Brantford, municipally known as 17 McBay Road, County of Brant proposing to change the zoning on the subject lands from Agricultural (A) to Rural Residential (RR) in order to facilitate a future Consent Application for the creation of one (1) new residential lot within the Rural Residential area, be approved.

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

- The application will facilitate residential development within the Rural Residential designation that is desirable and consistent with surrounding land uses;
- The application is consistent with the policies of *Provincial Policy Statement* and in conformity to the policies of the Growth Plan for the Greater Golden Horseshoe; and
- The application conforms to the policies of the Official Plan and is in keeping with the intent of the Zoning By-Law.

Key Strategic Priority

Undertaking actions that elevate customer service to those we serve.

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.

Zoning By-Law Amendment Application **ZBA39-22-DN** proposes to change the zoning on the subject lands from Agricultural (A) to Rural Residential (RR).

This application is required to facilitate further residential lot creation within the Rural Residential land use designation through a subsequent consent application.

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
- Minimum Distance Separation Analysis
- Stage 1&2 Archaeological Assessment
- Proposed Severance Sketch

At the time of writing this report, no concerns were raised as part of the public or technical circulation of this 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. This report recommends this Application be **Approved**.

Location

The subject lands are located east of Colborne Street East, along the south side of McBay Road.

The subject lands are irregular in shape and have a frontage 122 metres (+400 feet), depth of 140 metres and area of approximately 2.3 hectares (5.6 acres).

The subject lands contain an existing single detached dwelling.

The surrounding area consists of similar low density 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.

The following demonstrates consistency with the current Provincial Policy Statement (PPS).

<i>Provincial Policy Statement (PPS)– 2020</i>	<i>Planning Analysis</i>
Section 1.1.4.2 of the Provincial Policy Statement identifies that rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.	<i>The subject lands are located within an identified rural settlement area, designated for residential land uses within the County of Brant Official Plan.</i>

Section 1.1.4.3 explains that planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels.	<p><i>The rezoning will ensure that future lot creation and built form will be consistent with the characteristics of the established surrounding area.</i></p> <p><i>New lot creation and lot development will be required to comply with all other standards of the Rural Residential (RR) zone.</i></p>
Section 1.1.5.8 explains that new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.	<p><i>A review of surrounding livestock uses and the completion of an Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) Minimum Distance Separation (MDS) calculation was submitted as part of a complete application.</i></p> <p><i>The Minimum Distance Separation (MDSI – Type B) calculation review confirms that the proposed development maintains adequate separation from surrounding livestock uses.</i></p>
<p><i>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 form of housing while maintaining consideration for the surrounding agricultural uses.</i></p> <p><i>It is my professional opinion that the request is consistent with the policies of the Provincial Policy Statement.</i></p>	

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.

The following demonstrates conformity with the current Growth Plan.

<i>Growth Plan for the Greater Golden Horseshoe (2020)</i>	<i>Planning Analysis</i>
Policy 2.2.1.2(c) describes that limited growth will occur in settlement areas that are rural settlements and are not serviced by exiting or planned municipal water and waste water systems.	<p><i>The subject lands are located within an identified rural settlement area, designated for residential land uses within the County of Brant Official Plan.</i></p> <p><i>The subject lands are proposed to be developed on private infrastructure (water,</i></p>

	<i>sanitary and storm) as there are no services planned for this area at this time.</i>
<i>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.</i>	<i>The Minimum Distance Separation (MDSI – Type B) calculation review confirms that the proposed development maintains adequate separation from surrounding livestock uses.</i> <i>This application will not result in the reduction of an existing agricultural operation or active farmed land.</i>
<i>It is my professional opinion that the request conforms to the policies of the Growth Plan.</i>	

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 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 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.

- ***Schedule ‘A’ of the County of Brant Official Plan identifies that the subject lands are designated as Rural Residential.***

The following demonstrates conformity with the current Growth Plan.

<i>Official Plan (2012)</i>	<i>Planning Analysis</i>
<i>Section 2.2.3.3 of the County of Brant Official Plan describes that the Rural Residential land use designation have been identified based on their role as residential areas outside of the Urban Settlement Areas, Hamlets and Villages, and within the agricultural community. These areas do not have access to County water or sanitary sewage systems. Development shall be limited to infilling on existing lots of record or new draft plans of subdivision within the boundaries of the Rural Residential designation.</i>	<i>This application proposes to change the zoning on the subject lands in order to permit infilling on an existing lot of record on private services within the existing boundaries of the Rural Residential designation.</i>

Section 2.2.3.3(a) of the County of Brant Official Plan identifies the following criteria for suitable lot creation with the Rural Residential Area:	
i. The proposed development is subject to the policies of Section 3.7 of this Plan;	<i>The proposal is located within the limits of the identified rural settlement area.</i>
ii. The proposed development represents infill development or minor rounding out;	<i>The proposal represents ‘infill development’ as the proposal is adjacent to existing, similar and compatible residential land uses and based on current policies, the subject lands would not support any further lot creation beyond what is proposed.</i>
iii. The proposed development has access to potable water, and such supply does not adversely affect adjoining properties;	<i>The proposed development will be required to provide proof of potable water as a condition of consent and demonstrate no negative impact on surrounding water supply.</i>
iv. A servicing feasibility study has been completed in accordance with the Ministry of the Environment guidelines which demonstrates that the proposal’s impact on ground and surface water shall be within acceptable limits;	
v. The proposed servicing shall be appropriate for the proposed densities and land uses;	
vi. The pattern of new development shall be logical in the context of existing development;	<i>The proposed lot size and shape is consistent with the existing lots in the Rural Residential land use.</i>
vii. The proposed development complies with the Minimum Distance Separation Formulae;	<i>The Minimum Distance Separation (MDS) calculation review confirms that the proposed development maintains adequate separation from surrounding livestock uses.</i>
viii. The proposed development is compatible with existing development; and	<i>The proposed land use, lot size and shape is compatible with the existing lots in the Rural Residential land use.</i>
ix. Each lot proposed shall include a comprehensive drainage and lot grading plan demonstrating no adverse impacts on surrounding properties and a satisfactory outlet for stormwater.	<i>Each proposed lot will be required to demonstrate that lot grading and drainage are in accordance with the County of Brant Engineering Standards.</i>
Section 2.2.3.3.b of the County of Brant Official Plan states that development shall be consistent with and guided by the Servicing System policies in Section 5.2 of this Plan.	<i>Consistent with Section 5.2 of the Official Plan, this Rural Residential Area is to be serviced by private water, sanitary and storm infrastructure.</i>

Section 2.2.3.3.c of the County of Brant Official Plan states that development shall be limited to large lot residential development, in accordance with the Rural Residential designation in Section 3.7 of this Plan. Proposed lots shall be of a size similar to existing lots.	<i>The lot size and shape proposed are in keeping with the existing lot fabric and sized appropriately in accordance to Section 3.7 of the Official Plan in order to accommodate the area required for private services and separation from abutting parcels.</i>
<p><i>In summary, based on review of the applicable Official Plan policies, this application proposes to change the zoning on the subject lands to permit infilling on an existing lot of record on private services within the existing boundaries of the Rural Residential designation. The proposal meets the criteria for residential development within the Rural Area and the Rural Residential land use designation as this application aims to permit further establishment of a single detached home adjacent to and consistent with the existing built form.</i></p> <p><i>It is my professional opinion that the request conforms to the policies of the County of Brant Official Plan.</i></p>	

Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)

Minimum Distance Separation (MDS) (2017 – Publication 853)

The Minimum Distance Separation (MDS) Formulae are land use planning tools that determine setback distances between livestock barns, manure storages or anaerobic digesters and surrounding land uses. The objective of MDS is to minimize land use conflicts and nuisance complaints related to odour. MDS does not account for other nuisances such as noise or dust.

Guideline #6 - Required Investigation Distances for MDS

As part of municipal consideration of planning or building permit applications, all existing livestock facilities or anaerobic digesters within a 750 m distance of a proposed Type A land use and within a 1,500 m distance of a proposed Type B land use shall be investigated and MDS I setback calculations undertaken where warranted.

- ***Guideline #33 & #34 describe the variation between ‘Type A’ and ‘Type B’ land uses. ‘Type A’ land uses are interpreted to be any Agricultural land use. ‘Type B’ Land uses are interpreted to be any Non-Agricultural land use.***
- ***The MDSI – Type B analysis completed by Soil Solutions Plus identified livestock operations at the following locations:***

<i>Location</i>	<i>Required (MDSI -Type B)</i>	<i>Actual Distance</i>
23 West Harris Road	180 metres	434 metres
48 McBay Road	280 metres	960 metres
21 Westie Road	162 metres	677 metres
52 Jerseyville Road	250 metres	1,250 metres

- ***Based on review of the MDSI – Type B analysis completed by Soil Solutions Plus the minimum distance separation required for new lot creation from surrounding livestock uses are being maintained.***

It is my professional opinion that the proposal maintains the intent of the applicable OMAFRA MDS guidelines.

County of Brant Zoning By-Law 61-16

The subject lands are currently zoned **Agricultural (A)** within the County of Brant Zoning By-Law 61-16.

- ***This application proposes to change the zoning on the subject lands from Agricultural (A) to Rural Residential (RR).***

Section 9, Table 9.1.1 of the Zoning By-Law outlines the *permitted uses* in the Non-Urban Residential (SR, RH, RR) Zones include residential development in the form of Single Detached dwellings.

Section 9, Table 9.2.1 of the Zoning By-Law outlines the *zone requirements* for Non-Urban Residential (SR, RH, RR) Zones.

- ***Review of this application has confirmed that all other aspects of the Zoning By-Law as required in the proposed Rural Residential zone are being satisfied.***

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:

- That road widening be required across the remaining western portion of the McBay Road frontage of the Retained Lands. The road widening will begin from the existing road widening limit, as in Instrument A32296, and extend to the west property line along the Retained Lands frontage. Road widening would be a width of 5.18 meters (17 feet), as per the previous widening conveyed to the County of Brant in Instrument A32296. This recommendation will be a condition on the severance application.
- County staff performed a sight line analysis across the entire proposed frontage of the proposed lot (approximately 51.8 meters in total) and found a deficiency in proximity to the location of the proposed driveway, as shown on the "Proposed Servicing Plan for Severed Land Parcel 3" signed by George Ziotek dated September 6, 2022. A 0.3m Reserve will be required from the east limit of the proposed severance to 30m west along the McBay Road frontage to restrict an Access in this area. This comment will be stated through the future severance application. The results of the analysis are attached for reference.
- A Site Development Plan and Agreement will be required for the severance application.
- That the Applicant be advised that an approved Public Works Permit is required prior to commencing works within the County's right-of-way. This recommendation will be a condition on the severance application.

Environmental Planning:

- Environmental Planning has no comments on the proposed rezoning of 17 McBay Road.
- Upon circulation of the consent application, comments will be provided on tree

preservation including sediment and erosion control and/or tree protection fencing.

Grand River Conservation Authority (GRCA):

- GRCA has no objection to the approval of application ZBA39-22-DN. The subject property does not contain any watercourses, floodplains, shorelines, wetlands, valley slopes or other environmental features of interest to GRCA. The property is not subject to Ontario Regulation 150/06 and, therefore, a permission from GRCA is not required.

Fire:

- No issues with this severance application.
- When the new lot is created the rural fire fighting fee (\$600) is required.

Parks & Forestry:

- Cash-in-lieu of parkland for a total of \$5813 will apply when application moves forward.

Canada Post:

- Please be advised that Canada Post does not have any comments on the severance / rezoning of this property to create 1 residential lot.
- Depending on the hill / curve in the road, this customer will either be in the nearby Community mailbox for mail delivery or will have to cluster their rural mailbox with 17 McBay Rd..

Mississaugas of the Credit:

- Thanks for sending us at MCFN this RFC for the proposed zoning changes to 17 McBay Road. I have gone over the archaeological assessment that was attached to the package and reviewed it. After review MCFN has no further comments for this application.

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

- | | |
|------------------------|----------------------------------|
| · Field Services | · GIS Mapping / Civic Addressing |
| · Operations | · Grandbridge Energy |
| · Building | · Union Gas |
| · Economic Development | · Imperial Oil |
| · | · Six Nation |
| | · Bell Canada |

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* – Circulated on October 16, 2022
- *Notice of Public Information Meeting (September 6, 2022)* - Circulated on August 17, 2022
- *Notice of Public Recommendation Meeting (January 10, 2023)* – Circulated on December 21, 2022

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

Conclusions and Recommendations

The Zoning By-Law Amendment request is consistent with the *Provincial Policy Statement* and in conformity to the Growth Plan as the portion of the lands subject to this application are located within an identified Settlement Area where limited development on private services is permitted.

The Zoning By-Law Amendment request conforms to the Official Plan criteria for residential development within the Rural Area and the Rural Residential Designation as this application proposes to amend the Zoning By-Law to permit further establishment of single detached homes adjacent to and consistent with the existing built form.

As stated in the Planning Analysis portion of this report, the proposal is located within the limits of the identified rural settlement area and represents a 'infill development' as the proposal is adjacent to existing residential land uses.

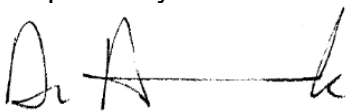
The protection of the surrounding livestock facilities has been considered as part of the review of this application and can conclude that the approval of this application will not result in further negative impact on surrounding livestock facilities as the Minimum Distance Separation (MDS) calculation review confirms that the proposed development maintains adequate separation from surrounding livestock uses.

Subsequent Consent Applications will be required to be heard by the Committee of Adjustment to facilitate the lot creation proposed. Conditions of future Consent Applications will include requirements to provide proof of potable water.

The planning justification and recommendation provided in this report is supported by the comments received as part of the technical circulation to internal and external agencies. Technical comments also reflect the understanding that details related to drainage, grading, servicing, etc will be facilitated through a subsequent *Planning Act* application and at the time a building permit.

It is my professional opinion that the request is appropriate and represents good planning and therefore I recommend that the Zoning By-Law Amendment Application ZBA39-22-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, PhD, MCIP, RPP, Ec.D., CMM3, General Manager of Development Services

Attachments

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

Copy to

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

File # ZBA39-22-DN

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

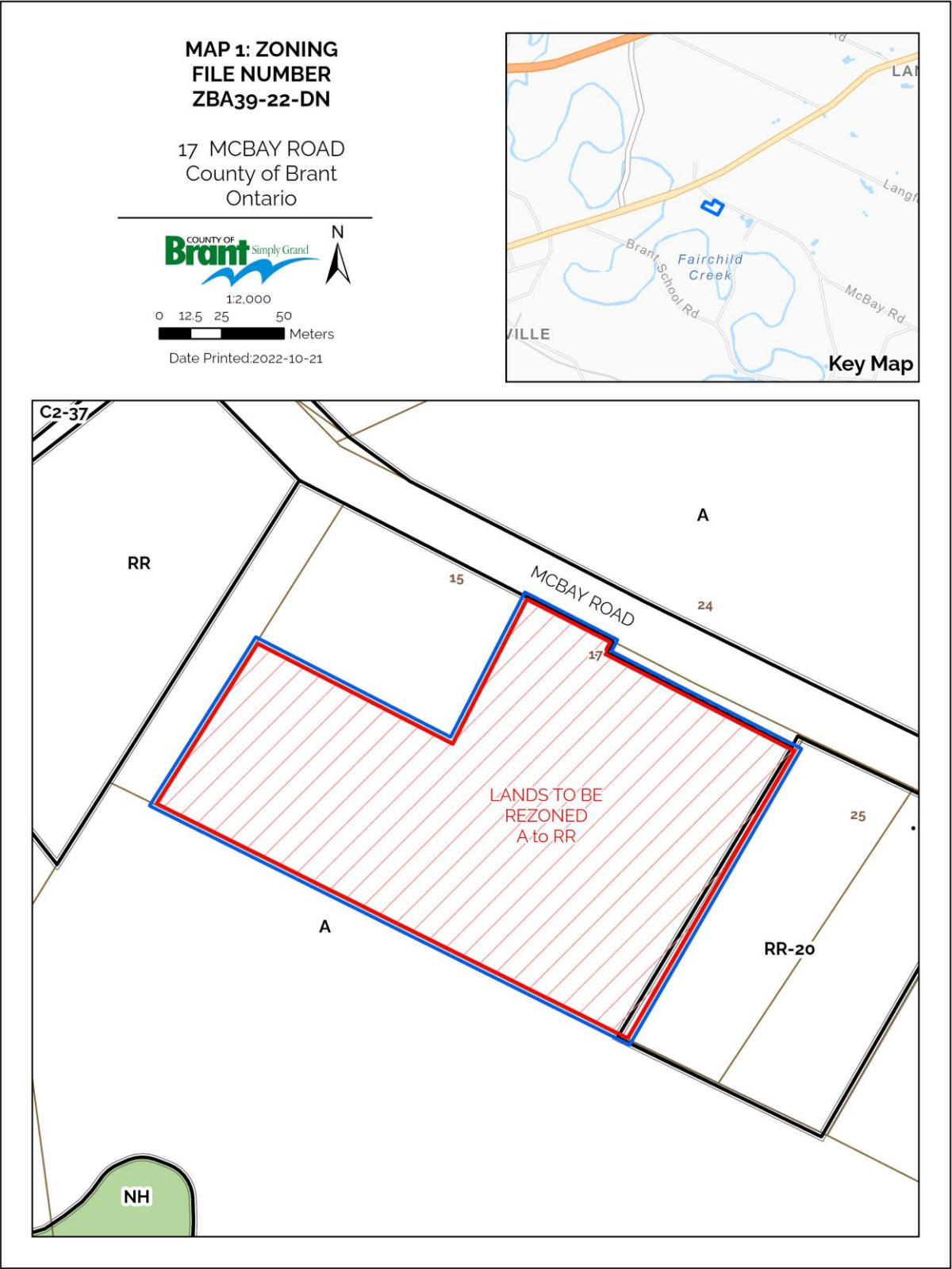
If so, it should be referenced in the recommendation section.

By-Law required? (Yes)

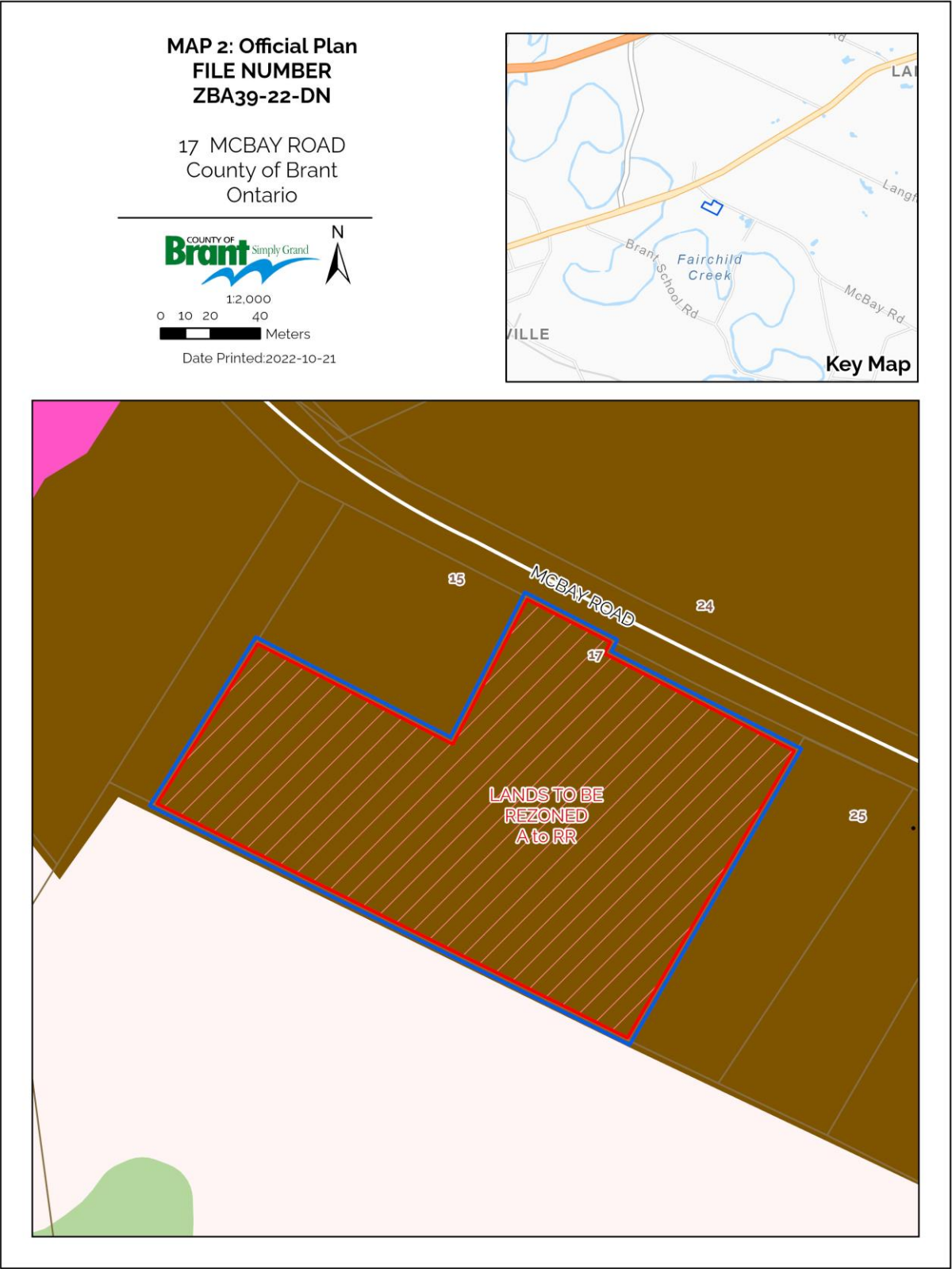
Agreement(s) or other documents to be signed by Mayor and /or Clerk? (No)

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

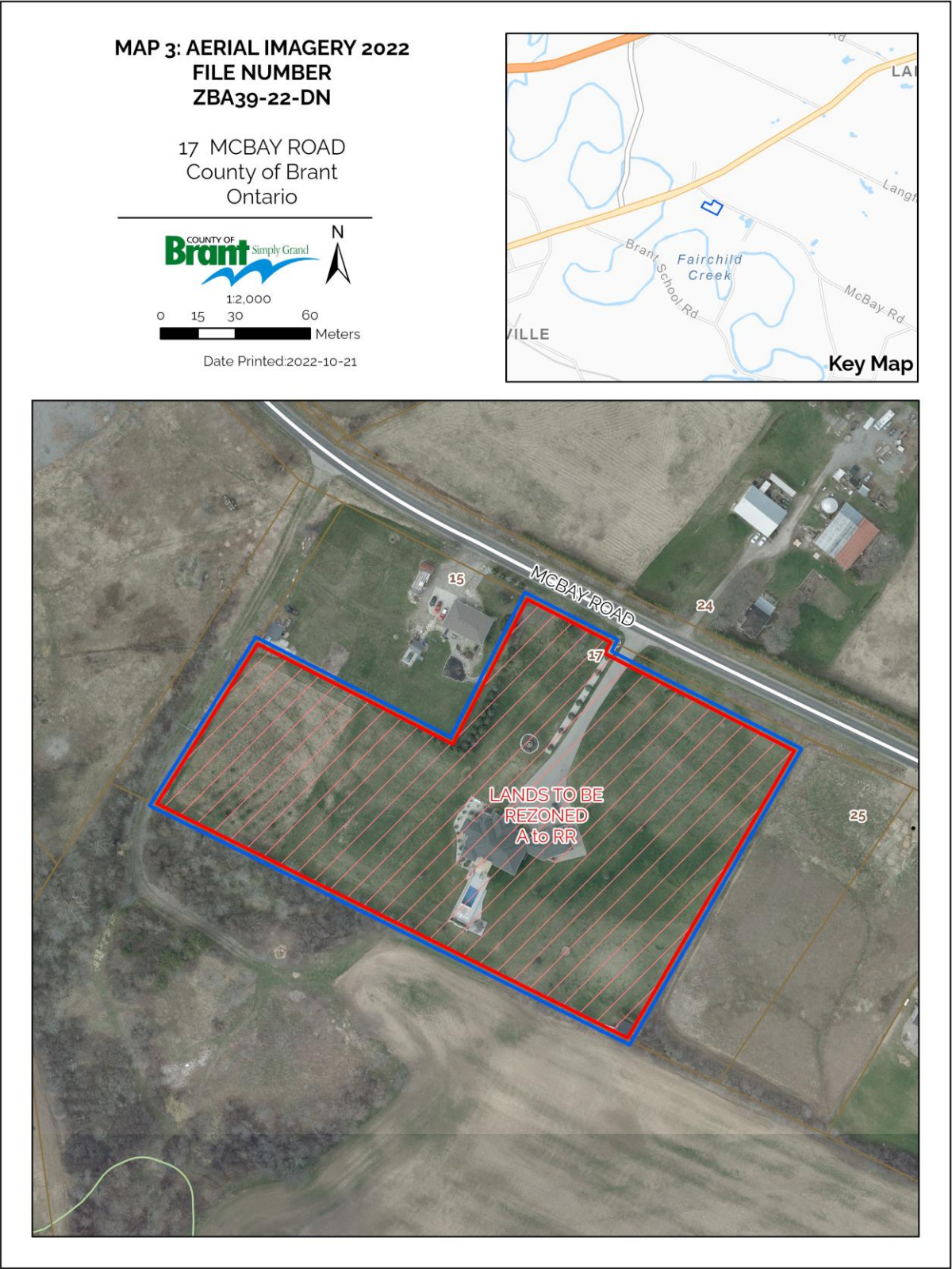
Attachment 1 - Zoning Map



Attachment 2 - Official Plan Map



Attachment 3 - Air Photo



Attachment 4 – Severance Sketch

NOTE: DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

