

MEMORANDUM

DATE: JANUARY 5, 2023

TO: TOWNSHIP OF EDWARDSBURGH CARDINAL – COMMITTEE
OF THE WHOLE - COMMUNITY DEVELOPMENT

FROM: NOVATECH

RE: 3609 COUNTY ROAD 21 – ZONING BY-LAW AMENDMENT

Background & Applicant's Proposal

A Zoning By-law amendment application has been received for a property located in Part of Lots 35 & 36, Concession 6, Township of Edwardsburgh Cardinal, known locally as 3609 County Road 21. The application has been filed to recognize an existing sawmill on the property as an on-farm diversified use and to limit the size of the sawmill operation. The application is filed by ZanderPlan Inc. on behalf of the owners, David Malcomson and Pamela Malcomson.

The property is located on the south side of County Road 21 and is sited approximately 3.3 km west of the Village of Spencerville. The subject property contains several acres of productive agricultural fields and is also currently developed with a single dwelling and several sawmill operation-related outbuildings. Surrounding the property are rural residential and agricultural uses. The subject property has a total lot area of approximately 12.86 ha and approximately 236 m of frontage on County Road 21. The subject property is also located adjacent to the South Nation River.

The subject property is designated as Agricultural Resource Policy Area on Schedule A of the Township's Official Plan. Schedule B of the Township's Official Plan identifies portions of the property as Significant Woodlands, Sand and Gravel Resources, Flood Plain and identifies a watercourse (Keeler's Creek) adjacent to the property to the east. The property is zoned Agriculture (A) and is partially subject to the Flood Plain Overlay zone on Schedule A of the Township's Zoning By-law No. 2022-37.

The Zoning By-law amendment application proposes to rezone the subject lands from Agriculture (A) to Agriculture Special Exception (A-x) zone to recognize an existing sawmill as an on-farm diversified use and to limit the size of the sawmill operation to 1 ha of the property's lot area. The application is supported by a Planning Rationale and a detailed Zoning By-law Amendment Sketch prepared by ZanderPlan Inc.

The existing sawmill operation (i.e. sawmill related buildings, storage areas, access roads) on the property as detailed on the zoning sketch and Planning Rationale accompanying the application occupies a total of 0.51 ha of the subject property, accounting for approximately 3.97% of the total lot area. The sawmill operation includes several buildings and structures used for the sawmill use such as a timber barn (approx. 450 m²), work shop (approx. 299 m²), coverall building #2 (approx. 291 m²) and a coverall building #1 (approx. 618 m²) which is understood to have been constructed on the property without obtaining Township permits. The application is requesting that a total of 1 ha

of the subject property be permitted for the sawmill operation use in order to allow some additional expansion.

Planning Discussion

The proposed zoning by-law amendment application has been reviewed against the following planning policy documents.

Provincial Policy Statement 2020

Section 2 of the PPS provides policy on the wise use and management of resources. It is a policy that prime agricultural areas shall be protected for the long-term use for agriculture (Section 2.3.1). Within prime agricultural areas, permitted uses and activities include agricultural uses, agriculture-related uses and on-farm diversified uses and proposed on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations (Section 2.3.3.1). The PPS notes that criteria of agriculture-related and on-farm diversified uses may be based on guidelines developed by the Province or municipal approaches (Section 2.3.3.1). Impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to extent feasible (Section 2.3.6.2).

It is noted that the Province released Publication 851 (Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas) to help municipalities and decision makers interpret policies of the PPS on uses that are permitted in prime agricultural areas. The publication also comprises the provincial guidelines referred to in Section 2.3.3.1 of the PPS. A review of this guideline is discussed further in this report.

The PPS provides the following definitions for agriculture-related and on-farm diversified uses:

Agriculture-related uses: means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.

On-farm diversified uses: means uses that are secondary to the principal agricultural use of the property, and are limited in area. *On-farm diversified uses* include, but are not limited to, home occupations, home industries, *agri-tourism uses*, and uses that produce value-added agricultural products. Ground-mounted solar facilities are permitted in *prime agricultural areas*, including *specialty crop areas*, only as *on-farm diversified uses*.

Section 3 of the PPS provides policy on protecting public health and safety. Section 3.1.2 states that development and site alteration shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazards. The subject property has areas identified as flood plain hazard adjacent to the South Nation River however the existing dwelling and sawmill operation locations on the property are sited outside of flood plain hazard lands.

United Counties of Leeds and Grenville Official Plan

Within the United Counties Official Plan, the subject property is designated as Agricultural Area on Schedule A. An objective of the Counties' Plan for the rural area is to protect prime agricultural areas and recognize the economic and social importance of agriculture in the Counties and ensure its continued viability by promoting a range of agricultural uses, activities and complimentary uses (Section 3.1 b)). It is also an objective to protect prime agricultural areas from fragmentation, development and land uses unrelated to agriculture (Section 3.2.1 c)). The Agricultural Area designation permits a variety of uses including agricultural uses, agricultural-related uses and on-farm diversified uses. The Counties Official Plan states that on-farm diversified uses are secondary to the principal agricultural use of the property, are limited in area, will be compatible with, and will not hinder, surrounding agricultural operations, and may include home occupations and home industries (Section 3.2.2 e)). It is also a policy that new land uses comply with the minimum distance separation formulae (Section 3.2.3 c)).

Township of Edwardsburgh Cardinal Official Plan

The Township's Official Plan designates the subject lands as Agricultural Resource Policy Area on Schedule A and Schedule B identifies a small portion as Sand & Gravel Resources and Flood Plain. Section 3.5 provides goals, objectives and policies for the Agricultural Resource Policy Area. The Official Plan states the loss and fragmentation of good agricultural land can result in the creation of incompatible uses and negative impacts on food and agricultural production (Section 3.5). It is also the Township's intention to protect and preserve private agricultural areas for agricultural uses.

Within the Agricultural Resource Policy Area, agricultural uses, agricultural-related and on-farm diversified uses are permitted uses (Section 3.5.2). Similar to the Counties Plan, the Township Official Plan states on-farm diversified use means uses that are secondary to the principal agricultural use of the property and are limited in area and examples of permitted uses include home occupations and home industries among other uses noted in the Plan (Section 3.5.2). The Official Plan notes that all uses are subject to the minimum distance separation formulae as set out in the land use compatibility section of the Plan (Section 3.5.3.1).

Township of Edwardsburgh Cardinal Zoning By-law

The subject property is zoned Agriculture (A) and is partially subject to the Flood Plain Overlay zone on Schedule A of the Township's Zoning By-law No. 2022-37. The Agriculture (A) zone includes an accessory dwelling, agricultural use, on-farm diversified use and a single dwelling as permitted uses. Each of these permitted uses are defined in the Zoning By-law; agricultural use and on-farm diversified use are defined as:

ON-FARM DIVERSIFIED USE shall mean uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products, but shall not include a cannabis production and processing facility, as defined herein.

AGRICULTURAL USE shall mean the use of land, buildings or structures for:

- Growing crops, including all related activities such as fertilizing, planting, spraying, irrigating, harvesting and the storage and sale of crops produced;
- Raising, breeding, boarding, training, keeping and/or sale of livestock, including the raising and sale of fish;
- Collection, production, storage and sale of animal products such as milk, eggs, wool, fur or honey;
- Greenhouse or nursery garden, including storage and sale of products produced;
- Planting, harvesting and sale of forest products, including maple syrup;
- Use and storage of all equipment related to the foregoing activities, including the occasional use of a portable sawmill; and
- Farm-gate sales of any of the above products, provided they are produced on the farm.

Agricultural use shall not include commercial or industrial activities such as abattoirs, tanneries, kennels or manufacturing activities involving crops, animal products, lumber or wood products. An agricultural use shall include cannabis production licensed by a Federal Agency for both cultivation outdoors and indoors within a greenhouse or a similar growing environment but shall not include a cannabis production and processing facility, as defined herein.

It is noted within the definition of agricultural use that commercial or industrial activities such as manufacturing activities involving lumber or wood products are not permitted. While home occupations and home industries are not defined, the Township's Zoning By-law also includes a sawmill as a defined use/term. A sawmill is a permitted use only within the Business Park Industrial Zone (MPB) and the Rural Industrial Zone (MR). A sawmill is not included as a permitted use within the Agriculture (A) zone and as such, a zoning by-law amendment would be required for the proposed use. It is noted that the Zoning By-law makes the distinction of identifying a sawmill as an industrial use which is only permitted in industrial zones.

SAWMILL shall mean lands, buildings or structures where timber is cut or sawed on a permanent basis, either to finished lumber products or as an intermediary step.

Planning Policy Analysis

A sawmill is not a permitted use in the Agricultural Zone; therefore the present application considers the sawmill on the subject lands as an on-farm diversified use. Given that the Township's Zoning By-law however does not include use-specific provisions for on-farm diversified uses (e.g. criteria to limit the area and uses of an on-farm diversified use), Publication 851 (Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas) is relied upon for interpreting permitted on-farm diversified uses and limited in area criteria. An on-farm diversified use is defined within the PPS, the United Counties and Township's Official Plan and zoning by-law as:

On-Farm Diversified Use shall mean uses that are secondary to the principal agricultural use of the property, and are limited area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

The Publication includes examples of what may be considered as a home occupation or home industry which includes a sawmill, welding or woodworking shop as a permitted home industry.

Therefore, a sawmill could be considered an on-farm diversified use provided all the criteria for being considered an on-farm diversified use are met. A review of the four criteria is provided below in relation to the proposed zoning by-law amendment application to permit a sawmill as an on-farm diversified use and to limit the size the sawmill operation to 1 ha of the property's lot area. It should be noted that Novatech has not attended the subject property to view the scale of sawmill operation and has relied upon information presented in the applicant's application and information provided by the Township.

1. Located on a farm.

The publication guideline notes that the use must be located on a farm property that is actively in agricultural use. It is understood the property is actively farmed (field crop production). The first criteria is considered to be met as the use is located on an active farm property.

2. Secondary to the principal agricultural use of the property.

The guideline requires that the on-farm diversified use is secondary to the principal agricultural use. Since the property is actively farmed, the sawmill may be considered secondary. However, the guideline states that this criterion is measured in spatial and temporal terms which is addressed in the third criteria with regards to determining whether the use is 'limited in area'.

3. Limited in area.

The subject property has a total lot area of approximately 12.86 ha which, by agricultural lot area standards, is considered a smaller existing agricultural property within the Township's Agricultural Resource Policy Area (the Township's Official Plan establishes a minimum lot area of 40 ha for new agricultural lots). Publication 851 states that the "limited in area" requirements for on-farm diversified uses should be based on the total land area that is unavailable for agricultural production as a result of the on-farm diversified use including parking, storage and landscape areas and buildings. A lot coverage ratio is recommended to be used based on the total individual property size and recommends that the standard for the acceptable area for an on-farm diversified use is up to 2% of a farm parcel to a maximum of 1 ha. Guidelines note that an on-farm diversified use of 1 ha on a 50 ha farm may be 'limited in area' while a 1 ha use on a 15 ha farm may not be and notes that on-farm diversified uses that are proposed to grow beyond the area limits are not supported.

The proposed limit of the sawmill operation of 1 ha would represent a lot ratio of approximately 7.7% which exceeds the recommended standard of the Provincial guideline. As noted in the Planning Rationale, the existing sawmill operation currently occupies approximately 3.97% of the total farm property area which already exceeds the limited in area criteria of 2%. It is our opinion the 1 ha proposed limitation for the sawmill operation does not meet the 'limited in area' criteria relative to the size of the existing farm parcel.

The guidelines states that if the area of a proposed on-farm diversified use exceeds the recommended area thresholds in the guidelines, consideration is to be given to Section 2.3.6 of the PPS on non-agricultural uses in prime agricultural areas. Section 2.3.6 states that planning authorities may only permit non-agricultural uses in prime agricultural areas for limited non-residential uses, provided that all of the following area demonstrated:

1. The land does not comprise of a specialty crop area;
2. The proposed use complies with the minimum distance separation formulae;
3. There is an identified needs within the planning horizon provided for in policy 1.1.2 for additional land to accommodate the proposed use; and
4. Alternative locations have been evaluated, and
 - i. There are no reasonable alternative locations which avoid prime agricultural areas; and
 - ii. There are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

With regards to the criteria of Section 2.3.6 of the PPS the subject lands are not considered specialty crops area as defined in the PPS, nor identified in the Township's Official Plan as a specialty crop area. It is understood Minimum Distance Separation requirements are not required for the use based on Guideline #10 of Publication 853 (The Minimum Distance Separation (MDS) Document) as a sensitive land use not proposed. The Planning Rationale provided by the applicants notes the proposed sawmill use to help supply local builders and contractors with materials to address the supply needs for housing within the planning horizon.

Within the PPS specialty crop areas are given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands within prime agricultural areas (Section 2.3.1). A review of the Canada Land Inventory (CLI) mapping notes the subject lands are predominately Class 1 soils with some areas identified as Class 3-stoniness soils. However, it is noted that the existing sawmill operation of 0.51 ha and existing buildings have expanded into existing agricultural fields identified as Class 1 soils, displacing these lands used for agricultural purposes. It is considered that the requested 1 ha area for the on-farm diversified use will enable further expansion of the use onto productive agricultural lands.

4. Includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products.

The sawmill use could be considered an on-farm diversified use as a home industry provided the operation is limited in scale.

5. Shall be compatible with, and shall not hinder, surrounding agricultural operations.

A review of the site plan provided with the application notes that the sawmill operation is located as a cluster of buildings and storage areas to limit impacts to agricultural operations on the subject property and surrounding operations. The siting of the existing sawmill operation assists in providing separation from nearby properties and the existing dwelling and landscaped area assist in providing screening from the street. As noted, the existing operation has expanded into existing agricultural fields displacing lands used for agricultural purposes.

While the sawmill use could be considered on-farm diversified use, appropriate provisions are required to limit the use relative to the size of the subject agricultural property. The publication guideline notes that the appropriate scale to qualify as an on-farm diversified use needs to be assessed on a case-by-case basis.

It is our opinion the amendment request to recognize a sawmill operation as an on-farm diversified use and to limit the size of the operation to 1 ha of the property's lot area does not meet all of the

criteria noted above. It is our opinion a sawmill operation of 1 ha would not be considered limited in area relative to the property's lot area. The 'limited in area' criteria is important to ensure prime agricultural lands are protected for the long term use to support agricultural uses in order to meet the intent of Provincial policy.

A draft by-law (Attachment A) has been prepared for Committee's consideration. The draft by-law accepts the sawmill as an on-farm diversified use but includes provisions to regulate the size of the on-farm diversified use by limiting the area to 4% (0.51 ha) of the lot area and limiting the gross floor area of buildings associated with the sawmill use to 1,400 m². The proposed amendment would also allow a building permit to be issued for the constructed coverall building of 618 m² while recognizing that the existing use already exceeds the 2% lot coverage criterion set out in the Provincial guidelines.

Public And Agency Comments

Public Comments

A public meeting was held on December 5, 2022 to received oral comments on the proposed application. Written and oral comments were received with expressed concerns with the following:

- Application would allow an industrial operation within an agricultural area;
- Concerns raised regarding noise and how this will be controlled;
- How will hours of operation be defined;
- Traffic impacts onto the County Road;
- Impacts to property values and taxes;
- Environmental concerns regarding noise, dust, run off and water supply, tree removal from site; and
- Notice of application and accuracy of information.

Agency Comments

The South Nation Conservation Authority (SNC) noted they do not have any objections to the application and noted the property contained floodplain, borders the South Nation River and has a mapped watercourse. It is noted a permit from the SNC may be required depending on the location of proposed development.

Site Plan Control

It is noted that the proposed use will be subject to the Township's Site Plan Control By-law. Many of the resident comments concerning noise mitigation, traffic and location of buildings and limiting of the sawmill operation size will be further controlled through the site plan control process. The site plan control agreement can also include appropriate clauses to ensure Provincial standards are met and appropriate permits are obtained for the sawmill use related to noise and other emissions as required by the appropriate Ministry.

Recommendation

A draft by-law, as presented in Attachment A, has been prepared for Council's consideration. The proposed by-law would permit the continued sawmill use on the property and limit the area of the

sawmill operation relative to the size of the subject property, generally consistent with Provincial guidelines to protect prime agricultural areas.

Alternatively, the Committee could choose to approve the amendment as presented by the applicant which would permit the proposed sawmill operation as an on-farm diversified use and limit the area to 1 ha of the subject property. If the Committee chooses the application as presented, it is recommended that in addition to limiting the area of the sawmill operation of 1 ha, that a maximum gross floor area provision be included in the amendment in order to limit the amount of floor area (buildings or structures) allocated to the on-farm diversified use.

Sincerely,

NOVATECH

Prepared By:



Jordan Jackson, RPP, MCIP
Project Planner

Attachment A: Draft By-law

Attachment A: Draft By-law

BY-LAW No. _____

**THE CORPORATION OF
THE TOWNSHIP OF EDWARDSBURGH CARDINAL**

**ZanderPlan Inc. o/b David and Pamela Malcomson
Part of Lots 35 & 36, Concession 6
3609 County Road 21**

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File: 122141
Date: January 9, 2023

**THE CORPORATION OF THE
TOWNSHIP OF EDWARDSBURGH CARDINAL**

BY-LAW NO. 2022-

“BEING A BYLAW TO AMEND ZONING BY-LAW NO. 2022-37”

**ZanderPlan Inc. o/b David and Pamela Malcomson
Part of Lots 35 & 36, Concession 6
3609 County Road 21**

WHEREAS By-law No. 2022-37 regulates the use of land and the use and erection of buildings and structures within the Township of Edwardsburgh Cardinal;

AND WHEREAS the Council of the Corporation of the Township of Edwardsburgh Cardinal deems it advisable to amend By-law No. 2022-37 as hereinafter set forth;

NOW THEREFORE the Council of the Corporation of the Township of Edwardsburgh Cardinal enacts as follows:

1. The lands affected by this By-law are shown as shaded and outlined by heavy black lines on Schedule “A” which is attached hereto and forms part of this By-law.
2. Zoning By-law No. 2022-37, as amended, is hereby further amended by adding the following new subsection at the end of Section 13.1.4 (Special Exception Zones):

14. A-14 (3609 Country Road 21)

Notwithstanding the provisions of Section 13.1 and 13.2 to the contrary, on lands zoned A-14, a sawmill shall be permitted as an on-farm diversified use and the following provisions shall prevail:

- **The maximum floor area for all buildings and structures related to a sawmill shall be limited to 1,400 m².**
- **A sawmill operation shall be limited to 4% of the total lot area.**

For the purpose of this subsection, a sawmill operation shall include all buildings, structures, parking and outdoor storage areas associated with a sawmill use.

3. Schedule “A” to Zoning By-law No. 2022-37, as amended, is hereby further amended by changing the zoning of the lands affected by this By-law from “A” to “A-14”.
4. The By-law shall become effective on the date of passing hereof, subject to the provisions of Section 34 (21) of the *Planning Act*, R.S.O. 1990, as amended.

Read a first and second time in open Council this ____ day of _____, 202__.

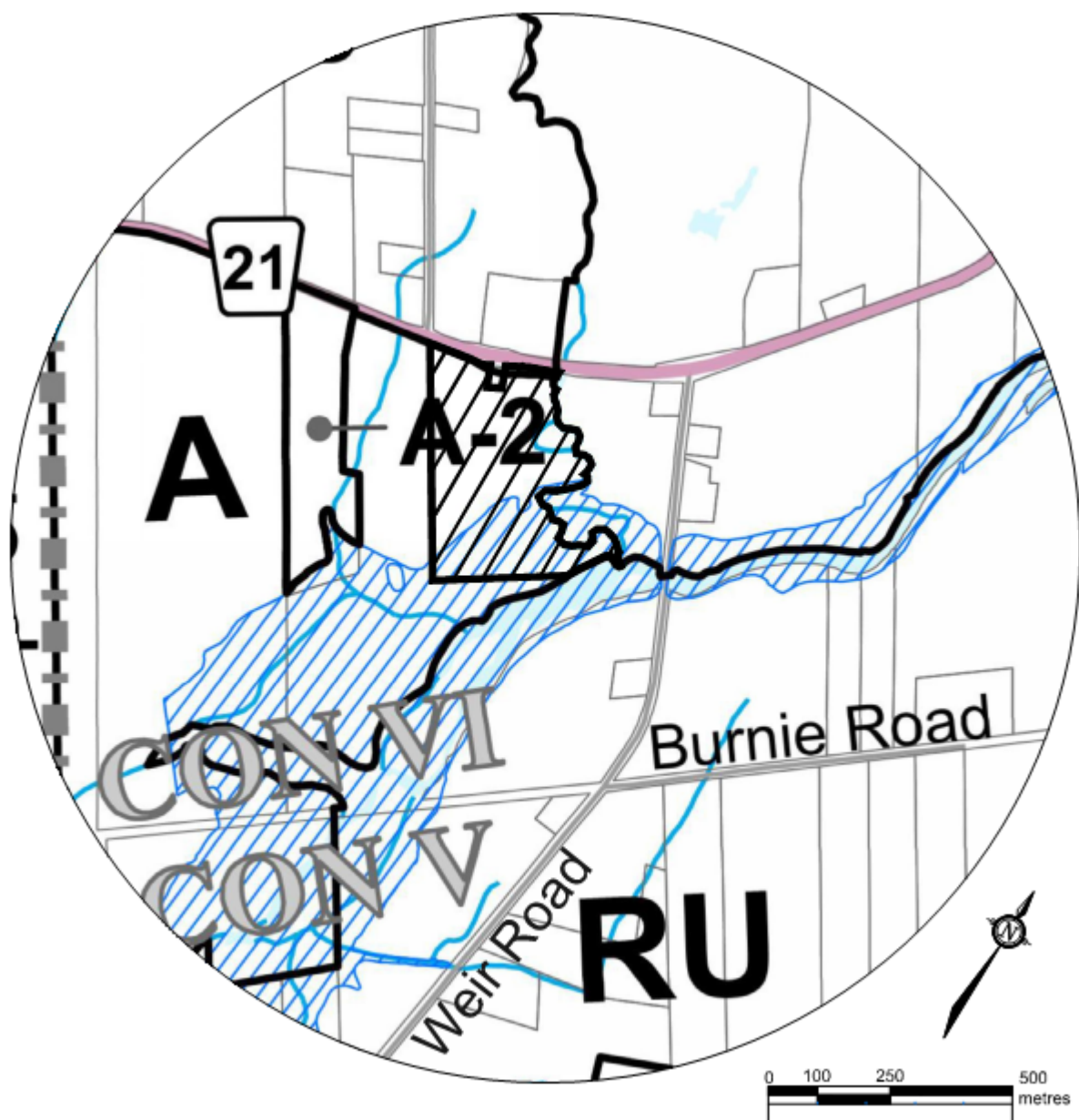
Read a third and final time, passed, signed and sealed in open Council this ____ day of _____, 202__.

Mayor

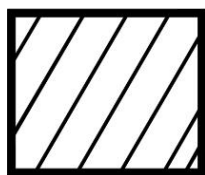
Clerk

Schedule “A” to By-law No. _____
TOWNSHIP OF EDWARDSBURGH CARDINAL

ZanderPlan Inc. o/b David and Pamela Malcomson
Part of Lots 35 & 36, Concession 6
3609 County Road 21



AREA(S) SUBJECT TO THIS BY-LAW



TO: AGRICULTURE SPECIAL EXCEPTION 14 (A-14)
ZONE
FROM: AGRICULTURE (A) ZONE