

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 21, 2022

CASE NO(S).: OLT-21-001858
(Formerly) PL180202

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1354083 Ontario Inc.
Appellant:	Andrew Abel
Appellant:	Donald Barkley
Appellant:	Grant Brown; and others
Subject:	Proposed Comprehensive Official Plan
Municipality:	United Counties of Stormont, Dundas and Glengarry
OLT Case No.:	OLT-21-001858
Legacy Case No.:	PL180202
OLT Lead Case No.:	OLT-21-001858
Legacy Lead Case No.:	PL180202
OLT Case Name:	Stormont, Dundas and Glengarry (County) v. Ontario (Ministry of Municipal Affairs and Housing)

Heard: May 31, 2022 by video hearing

APPEARANCES:

Parties

Ministry of Municipal Affairs and Housing ("MMAH")

United Counties of Stormont, Dundas & Glengarry ("United Counties")
(Appeal 1)

Counsel/Representative*

Anna-Lee Beamish

Trent McBain

Township of North Glengarry ("North Glengarry") (Appeal 2)	Trent McBain
Township of South Glengarry ("South Glengarry") (Appeal 3)	Spencer Putnam
Township of South Stormont ("South Stormont") (Appeal 4)	Trent McBain
Township of North Stormont ("North Stormont") (Added Party)	Trent McBain
Township of South Dundas ("South Dundas") (Appeal 5)	Trent McBain
Township of North Dundas ("North Dundas") (Appeal 6)	Steve Ault
Cornwall Regional Airport Commission (Appeal 7)	Spencer Putnam
Cartwave Realty Limited (Appeal 13)	Patrick Simon
Cornwall Gravel Company Limited (Appeal 14)	Patrick Simon
Coco Properties Corporation (formerly Cruickshank Properties Corporation) (Appeal 15)	Anthony Rossi*
Jacob William Hoogenboom (Appeal 18)	Self-represented*
Catherine & Gary Garlough (Appeal 28)	No one appeared

MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID L. LANTHIER ON MAY 31, 2021 AND ORDER OF THE TRIBUNAL

BACKGROUND AND OVERVIEW

[1] This is the seventh Case Management Conference ("CMC") in relation to the outstanding Appeals remaining before the Tribunal in respect of MMAH's modification of

the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan (the “United Counties OP”). This hearing event was scheduled in accordance with paragraph 59 of the decision issued on February 15, 2022, following the last CMC and hearing of motions conducted on January 18, 2022 by video hearing.

[2] Within the case management of those remaining appeals before the Tribunal, and the withdrawal of one additional Appeal, this Decision addresses four separate Motions brought before the Tribunal and provides additional case management directives for those two remaining Appeals before the Tribunal.

[3] Counsel for the United Counties, MMAH and the Townships, and counsel for the remaining Appellants have once again greatly assisted the Tribunal in the organization and resolution of the Appeals. In advance of this hearing event, the Tribunal was provided with a proposed Agenda and outline summarizing the status of the two remaining Appeal streams and the unresolved Appeals.

[4] The Tribunal is in receipt of four Motions returnable for this date:

1. Motion 1 – A Motion brought by South Stormont to implement a settlement reached between it and MMAH to resolve the balance of the issues remaining with respect to its Appeal, including policy text within Tables 9.1.3 and 3.5 of the United Counties OP, transportation policies within paragraph 3 of section 9.3.2 of the United Counties OP, and significant woodland and natural heritage system mapping.;
2. Motion 2 – A Motion brought by North Dundas to implement a settlement reached with respect to all Appeals relating to the Prime Agricultural/Rural Land Use Designations in Schedule A, bringing into full force and effect the entirety of the remaining Schedule A1 and introducing an additional policy within the text of the United Counties OP;
3. Motion 3 – A Motion brought by Appellant 15, Coco Properties Corporation (“Coco Paving”) to implement the settlement reached with respect to its Appeal by bringing into full force and effect the land use designation of

“Extractive Resource Lands (Mineral Aggregate Reserve)” for those identified lands it owns; and

4. Motion 4 – A Motion brought by Appellant 14, Cornwall Gravel Company Limited (“Cornwall Gravel”) to implement the settlement reached with respect to its Appeal in relation to seven identified pit properties, whereby designations are to be confirmed for certain properties as “Extractive Resource Lands – Mineral Aggregate Reserve (Sand and Gravel Reserve)” in the manner designated on five various figures in the Motion materials and located within the various Schedules to the United Counties OP, woodland constraints are to be removed for identified areas and LSW illustration within the boundaries of the lands designated as Extractive Resource Lands (Licensed Pit & Quarry) within Apple Hill Quarry, Property No. 1, is to be deleted.

[5] For the purposes of the continuing exhibits in these CMCs and Motions:

- 1 & 2 The Affidavit of Trenton McBain sworn May 30, 2022 as to service of the Notices of Motion and supporting material for both Motion 1 on behalf of South Stormont, and Motion 2 on behalf of North Dundas is marked as Exhibit 19 to the CMCs;
- 3 The Affidavit of Ashlee Zelek sworn April 18, 2022 as to service of the Notice of Motion filed on behalf of Coco Properties Corporation for Motion 3 is marked as Exhibit 20 to the CMCs; and
- 4 The Affidavit of Ciske Pointon sworn May 13, 2022 as to service of the Notice of Motion filed on behalf of Cornwall Gravel for Motion 4 is marked as Exhibit 21 to the CMCs.

[6] Following the withdrawal of the McMahon Appeal (see below), and with the determination of the four Motions as set out below, there remain only two outstanding Appeals out of the original 37 Appeals that were before the Tribunal. These two remaining matters, and the case management directives which relate to these outstanding Appeals are addressed following the determination of the four Motions.

WITHDRAWAL OF MCMAHON APPEAL (No. 32) AND LAFRAMBOISE APPEAL (No. 19)

[7] In addition to this CMC, there was one other hearing event that was scheduled to adjudicate Appeal No. 32, commencing on July 6, 2022. However, on March 6, 2022, the Tribunal received confirmation from the United Counties that Ms. Marilyn McMahon, Appeal 32, had withdrawn her Appeal before the Tribunal. The necessary closure letter was forwarded to Ms. McMahon. As a result, it was unnecessary for Ms. McMahon and the other parties involved in this Appeal to comply with the directions of the Tribunal in the prior Decision (with respect to the filing of a Procedural Order), and the one-day hearing of this Appeal, scheduled on the Tribunal's calendar for July 6, 2022, was removed.

[8] Appeal No. 19 brought by Maurice Laframboise was included in the list of Outstanding Appeals appended to the Decision Issued on February 15, 2022. It was determined that this remained through inadvertence, and the Tribunal received confirmation that this Appeal was withdrawn.

MOTION 1 – SOUTH STORMONT

[9] Various aspects of the Appeal of South Stormont were either resolved or withdrawn through the prior Orders of the Tribunal arising from those motions previously before the Tribunal. A settlement was previously reached in principle with respect to the wording of section 9.3.2, but this was not implemented through a requested Order of the Tribunal due to an outstanding matter, which has now been addressed. At this point, all those issues which remained outstanding have now been resolved and South Stormont seeks an Order implementing the settlement reached between South Stormont, United Counties and MMAH.

[10] South Stormont requests an Order: (a) confirming that South Stormont's appeals of Tables 9.1.3 and 3.5 have been withdrawn; (b) that the agreed-upon wording of

section 9.3.2, as now submitted to the Tribunal be approved; and (c) that the revised mapping as contained in Schedules B2 and B3 now filed with the Motion materials be approved and brought into force and effect. South Stormont also requests a directive Order to the United Counties to prepare a new consolidated version of the United Counties OP to reflect these Orders, and an Order abridging the time for service of the Notice of Motion.

[11] As the Motion materials indicate the proposed resolution of the balance of the South Stormont Appeal Motion is brought with the consent of all these parties. As with many aspects of these appeals there have been ongoing and extensive discussions between planning staff with South Stormont, the United Counties and the MMAH, which has led to the terms of the proposed and requested Order of the Tribunal agreed-upon by the parties.

[12] In support of the Motion, South Stormont has filed the Affidavit of Mr. Peter Young, Director of Planning for the United Counties, sworn May 19, 2022. The Tribunal received and reviewed Mr. Young's *Curriculum Vitae* and the Acknowledgement of Expert's Duty and has previously qualified him and confirms his qualifications to provide expert land use planning opinion evidence.

[13] Mr. Young, in his Affidavit addresses the three outstanding issues that have not been finally addressed in any of the prior Orders of the Tribunal arising from the ongoing case management of these Appeals.

[14] The first relates to the appeal by South Stormont of Tables 9.1.3 and 3.5 of the United Counties OP, whereby South Stormont expressed concerns as to the reduction of Special Land Use Districts from 50 to 23 and took the position that some of these Districts should be reinstated dependent upon final mapping and that Table 3.5 should include Rural Industrial Uses.

[15] With the recently approved mapping of Agricultural/Rural under the Order of February 15, 2022, the Township has reconsidered its position, will address any remaining concerns on this matter through a future housekeeping amendment and has withdrawn this aspect of its Appeal.

[16] The second issue raised by South Stormont was the modification to section 9.3.2, paragraph 3, which was a site-specific policy for the Long Sault Employment Area. The focus of this text concern was the imposed requirement of an Interchange Highway Access Management Plan for every type of development application that would be too onerous for less significant planning applications. The parties agreed upon a wording amendment to allow for flexibility in the development of an Interchange Highway Access Management Plan and when it is required, but the request to the Tribunal for its implementation was postponed due to impact upon one specific Appeal, which has now been resolved.

[17] The text of the revised version of section 9.2.3, as it was set out in paragraph 16 of Mr. Young's Affidavit is now contained within Attachment 2 to this Decision and Order.

[18] The third and final outstanding component of the South Stormont Appeal related to the entirety of Schedule B2, the Constraints Schedule of Significant Woodlands in the South Stormont Township, and of Schedule B3, the Constraints Schedule of Natural Heritage Systems in the Township. The Township did not dispute the entire methodology of the mapping in these two Schedules and essentially the concerns revolved around discrepancies between the mapped constraints area and the text of the United Counties OP and necessary changes and corrections which South Stormont deemed necessary to reflect existing conditions. After a review of various environmental reports and data, the parties agreed that certain significant woodlands on identified properties could be removed from Schedules B2 and B3 and remain consistent with the *Natural Heritage Reference Manual (2010)* and the *Provincial Policy Statement 2020 ("PPS")*.

[19] Mr. Young has provided a comprehensive planning analysis and opinion in paragraphs 22 through to 35 of his Affidavit. Mr. Young has concluded that the proposed changes to section 9.3.2 and the mapping in Schedules B2 and B3 are consistent with the *PPS*, reflects the objectives of the United Counties OP and represents good planning.

[20] Specifically, Mr. Young has reviewed and opined upon the manner in which the amendments to section 9.3.2 are consistent with policies relating to transportation and infrastructure corridors, the protection of employment areas in proximity to major goods movement facilities and corridors for employment uses that require those locations.

[21] As well, Mr. Young has reviewed the changes to the mapping in Schedules B2 and B3 and how they are consistent with the *PPS* policies relating to the identification and protection of natural heritage systems and significant woodlands. This is based upon the species at risk and environmental site assessments that were completed, the donation of environmentally sensitive lands to the Raisin Region Conservation Authority, and the examination of the interrelation of the protection of natural heritage systems and significant woodlands to extraction licenses under the *Aggregate Resources Act* for the pits on properties identified in Mr. Young's Affidavit. Mr. Young, in turn, has relied upon the professional opinion of Ms. Tracy Zander, a planner with expertise in aggregate planning.

[22] Mr. Young has provided his planning opinion that the requested Orders, as they will implement the amended wording of section 9.3.2 and the mapping of the two Schedules, recognizes existing approvals and previous work undertaken by property owners, protect major goods movements facilities and corridors, promotes compatibility and supportive land uses adjacent to these corridors and properly identifies natural heritage systems and significant woodlands. With his view that the amendments are consistent with the *PPS*, and recognize the requirements of the United Counties, they represent good planning and should be approved.

[23] Upon the unchallenged planning evidence provided by Mr. Young, the Tribunal is satisfied, and finds, that the Order requested in this Motion: has regard for matters of Provincial Interest as set out in s. 2 of the *Planning Act* (“Act”); is consistent with the *PPS*, and in particular those policies as they relate to the recognition of existing development and previously granted approvals, protect major goods movement facilities and corridors and promote compatible and supportive land uses adjacent to these corridors, and the requirements of the provincial policies to identify natural heritage systems and significant woodlands; reflects the objectives and related policies of the United Counties OP; and represents good planning in the public interest.

[24] The appropriate Orders have been made following this Memorandum of Decision.

MOTION 2 – NORTH DUNDAS

[25] The text-related Appeals of North Dundas were resolved previously, leaving only the issues relating to Land Use Schedule A1. As was anticipated at the last CMC, the parties have reached a resolution of the North Dundas Land Designation Appeals. With its Motion, North Dundas accordingly seeks an Order bringing into force and effect all land use designations in the Township of North Dundas, as now set out in Schedule A1 within the United Counties OP, filed with the Motion. As part of the proposed resolution, the parties have agreed to the creation of a Hybrid Special Policy Area, requiring a textual modification in section 9.5 of the United Counties OP.

[26] North Dundas also requests a concurrent housekeeping Order for the amendment and consolidation of the amended Schedule and, to ensure there are no issues with respect to service, an Order abridging the time for service of the North Dundas Notice of Motion.

[27] The Motion materials confirm that this Motion, and the proposed resolution of the remainder of the North Dundas Land Designation issues, has come about following

extensive discussions between planning staff with North Dundas, the United Counties, the MMAH and the Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”) over an extended period of time. This has involved communications of all arrangements with the three private Appellants 14, 18 and 28. The Motion is brought with the consent of all these parties as to the land designations under the revised mapping now provided for in Schedule 1A.

[28] In support of the Motion, North Dundas has filed the Affidavit of Mr. Calvin Pol, Director of Planning, Building and Enforcement for the Township of North Dundas, sworn May 18, 2022. The Tribunal has received and reviewed Mr. Pol’s *Curriculum Vitae* and the Acknowledgement of Expert’s Duty and qualifies him to provide expert land use planning opinion evidence for the purposes of this Motion. Mr. Pol’s Affidavit also contains the agreed-upon wording of the additional policy 9.5 creating the “Special Land Use Area – Township of North Dundas”.

[29] In support of the Motion, the Tribunal also received the revised and final amended form of Schedule A1 as updated by the MMAH on March 31, 2022, which is appended to Mr. Pol’s Affidavit as Exhibit B, which has been reviewed by the Tribunal.

[30] As the case management of these Appeals have progressed to this point, the Orders requested by North Dundas in this Motion would resolve all the public and private appeals within the “Rural/Agricultural Stream” with respect to Schedule A1 of the United Counties OP, including:

- Appellant 1 – United Counties of Stormont, Dundas and Glengarry;
- Appellant 6 – The Township of North Dundas;
- Appellant 14 – Cornwall Gravel (as it relates to the issues within this land designation stream);
- Appellant 18 – Jacob Hoogenboom; and
- Appellant 28 – Catherine and Gary Garlough.

[31] In paragraphs 10 through 25 of his Affidavit, Mr. Pol has provided a detailed overview of the background of discussions, technical and planning meetings, and ongoing review of the designations from the initial public consultation before adoption of the United Counties OP on July 17, 2017; and the modifications of the MMAH that resulted in the redesignations of lands in North Dundas. The modifications by the MMAH redesignated 2,740.8 hectares from Rural District to Agricultural Resource Lands which led to the Appellants' objections to these modifications. The Tribunal stood down to allow ongoing local and professional review, technical meetings and examination and consideration of identified criteria by the parties which led to continuing negotiations.

[32] As Mr. Pol has explained this eventually led to the proposed additional Special Land Use Area and revised mapping, which was ultimately approved in principle by all Appellants for presentation to the Tribunal.

[33] To support the latter, the parties have worked to create a Hybrid Special Policy Area in section 9.5.2. The text of that additional section, as it was set out in paragraph 33 of Mr. Pol's Affidavit is contained within Attachment 4 to this Decision and Order and provides that the lands within this Policy Area will be protected and preserved over the long term for both aggregate extraction and agricultural purposes.

[34] Mr. Pol has opined that this hybrid designation will better protect these two important resources in North Dundas, which are located as close to markets as is realistically possible, thereby balancing the protection requirements for both agricultural and aggregate resources as set out in the *PPS*.

[35] Mr. Pol has provided a detailed planning analysis to support his opinion that the revised Schedule A1, submitted as Exhibit B to his Affidavit reflects the objectives of the United Counties OP as it was approved by Council for the County and represents good land use planning.

[36] Mr. Pol has concluded that the revised mapping, with the addition of the new policy area protects matters of provincial interest in s. 2 of the *Act*, is consistent with the *PPS* as it will protect prime agricultural areas in North Dundas for long-term agricultural use, as well as sand deposits of tertiary significance as mineral aggregate resources.

[37] Mr. Pol also has reviewed the policy considerations and criteria as it relates to designations in two areas, east of South Mountain along the north side of the South Nation River, and the existing golf course and restaurant in the context of the existing Special Policy Area contained in the 2006 United Counties Official Plan as it was carried over to the United Counties OP. It is Mr. Pol's opinion that the designations reflect the intent of the policies within the United Counties OP, will protect resources including Agricultural Resource Lands and resource-related economic uses and represents good planning. Overall, Mr. Pol has concluded that the final form of Schedule 1A, with the additional textual policy area in policy 9.5.2 complies with the *Act* and is consistent with the policies of the *PPS*, including the designation of prime agricultural areas, the recognition of existing development and other appropriate land uses to meet the needs and requirements of the Township.

[38] Upon the uncontroverted planning evidence the Tribunal is satisfied, and finds that the Order requested in this Motion: has regard for matters of Provincial Interest as set out in s. 2 of the *Act*; is consistent with the *PPS*, and in particular those policies as they relate to the designation and protection of prime agricultural areas and agricultural resources and aggregate recourses; reflects the objectives and related policies of the United Counties OP; and represents good planning in the public interest.

[39] The appropriate Orders have been made following this Memorandum of Decision.

MOTION 3 – COCO PROPERTIES CORPORATION

[40] The Motion brought by Coco Properties Corporation is preceded by the Order made by the Tribunal issued on February 15, 2022 directing and confirming for all purposes relating to Appeal No. 15 before the Tribunal now advanced by Coco Properties Corporation that the position taken by Coco Properties was that the subject property it owned (“Subject Property”) should not be designated as agricultural and instead properly designated as “*Extractive Resources Lands (Mineral Aggregate Reserve)*” in Land Use Schedule A4 of the United Counties OP.

[41] Based upon the investigations, land evaluation studies, reviews and discussions between Coco Properties, the United Counties and MMAH, the parties have now revised and agreed as to the correct designation of “*Extractive Resources Lands (Mineral Aggregate Reserve)*” for the Subject Property owned by Coco Properties within Schedule A4 of the United Counties OP, now described in Attachment 5 to this Decision and Order. This Motion is before the Tribunal on a consent basis.

[42] Motion 3 is supported by the Affidavit evidence of Mr. Rossi, who has provided his *Curriculum Vitae* and his Acknowledgement of Experts Duty which has been reviewed by the Tribunal. The Tribunal qualifies Mr. Rossi to provide expert land use planning opinion evidence for the purposes of this Motion.

[43] Specifically as a result of the ongoing reviews and assessments the land evaluation study undertaken has confirmed that there is a difference between what was originally mapped by the Province on the identified Subject Property owned by Coco Properties and what was actually on the lands, and that the Subject Property is comprised mostly of stony and mineral soils and contains no prime agricultural lands.

[44] Based upon these determinations, and the agreement reached by the parties, Mr. Rossi has provided his planning opinion that the revised designation is consistent with the policies of the *PPS* and legislation governing aggregate resources relating to

the protection of mineral resources for the economic environmental and social benefits they provide for Ontario's long term prosperity, land use compatibility of proposed aggregate extraction sites and those policies relating to the designation and protection of prime agricultural lands. Since the technical studies confirm that the Subject Property contains marketable aggregate resources, has potential for the production of granular materials, concrete and asphalt aggregates and is not suitable for agricultural uses (or protection as Agricultural Resource Lands), the appropriate designation is that of "*Extractive Resources Lands (Mineral Aggregate Reserve)*".

[45] In Mr. Rossi's opinion, the proposed change to the designation of the Subject Property also conforms to the intent of the policies of the United Counties OP that recognize and promote the economic contributions of aggregate resources in the Counties, minimize land use conflicts, and promote the stewardship of such resources. It also satisfies the goals in the United Counties OP to protect renewable and non-renewable natural resources for resource and resource-related economic use. Specific applications relating to aggregate extraction will be governed by the existing permitting and public processes under the legislation.

[46] For these reasons, Mr. Rossi is of the opinion that the requested redesignation of the Subject Property is consistent with the *PPS*, reflects the objectives of the United Counties OP, constitutes good planning and should be approved.

[47] Upon the uncontroverted planning evidence of Mr. Rossi, the Tribunal is satisfied, and finds that the Order requested in this Motion: has regard for matters of Provincial Interest as set out in s. 2 of the *Act*; is consistent with the *PPS*, and in particular those policies as they relate to the protection of aggregate resources; reflects the objectives and related policies of the United Counties OP; and represents good planning in the public interest.

[48] The appropriate Orders have been made following this Memorandum of Decision.

MOTION 4 – CORNWALL GRAVEL

[49] The fourth and final Motion before the Tribunal was brought by Cornwall Gravel requesting approval of the resolution reached between Cornwall Gravel, the United Counties, the Townships and MMAH with respect to the designations for seven of its pit/quarry properties, excluding the MacLeod Quarries (now consolidated with other proceedings before the Tribunal as explained in this Decision). Cornwall Gravel requests that the Tribunal allow the Appeal in part and order the designations for each of the identified pits or quarries identified in the Motion materials and/or adjust the identified areas or constraint areas within a site governed by a land use designation.

[50] The Table summarizing the requested disposition for the identified properties (the “Disposition Table”) was included and is reproduced, with formatting adjustments in the Order below, as well as within Attachment 6 to this Decision and Order, which also includes the appropriate mapping excerpts for each of the seven sites.

[51] Motion 4 is supported by the Affidavit of Mr. Travis Mitchell sworn May 12, 2022. Mr. Mitchell is a geologist and Project Manager with Cornwall Gravel, and his evidence focuses on the geotechnical aspects supported by those reports prepared to address the nature of the aggregate resources located on the identified properties owned by Cornwall Gravel.

[52] Cornwall Gravel’s Motion is also supported by the Affidavit of Ms. Tracy Zander also sworn on May 12, 2022. Ms. Zander is a planner, with a specialty focus on aggregate matters retained by Cornwall Gravel. Both Mr. Mitchell and Ms. Zander have each provided their *Curriculum Vitae* and their executed Acknowledge of Expert’s Duty. The Tribunal qualifies Mr. Mitchell to provide expert opinion evidence in the areas of geology and aggregate resource assessment for the purposes of this Motion and qualifies Ms. Zander to provide expert opinion evidence in the area of land use planning, with a specialty in aggregate resource planning matters.

[53] Mr. Mitchell has provided a detailed overview of the aggregate resources located on each of the identified pits and/or quarries listed in the Disposition Table and provided a description of the results of the analysis of the aggregate resources on each of the sites and his professional opinions in that regard for each of the sites. The analysis of the aggregate resources for each of the sites has led to the eventual agreed-upon resolution with respect to the land use designations and with respect to mapping adjustments as noted in the Disposition Table and the requested Disposition for each of the sites.

[54] Ms. Zander has, in her Affidavit, provided her planning opinion in respect of the requested disposition for each of the seven sites, and generally in regard to the requested approval of the dispositions within the Disposition Table. Ms. Zander has relied upon the evidence of Mr. Mitchell which, in her view, establishes a sound planning basis for the amendments to the Schedules of the United Counties OP set out in the Disposition Table.

[55] Ms. Zander has, in her planning analysis of each of the proposed dispositions requested from the Tribunal, reviewed considered the policies of the *PPS*, including those which speak to the identification and protection of mineral aggregate resources for long-term use. She has also considered the relevant portions of the United Counties OP relating to permitted uses and land designations for Extractive Resource Lands. Ms. Zander has opined that the proposed amendments to the identified Schedules of the United Counties OP set out in (a) through (d) of the Disposition Table are consistent with the policy provisions of the *PPS* and the intent of the United Counties OP set out in section 5.4 relating to Extractive Resource Lands.

[56] With respect to the proposed amendments to the identified Schedules of the United Counties OP set out in (e) of the Disposition Table, Ms. Zander is of the view that this is simply a technical amendment required to accurately reflect the mapping for the Sand and Gravel Reserve Limits of the Sauve Tait Pit.

[57] Finally, Ms. Zander has provided her planning opinion in regard to the requested disposition to remove the constraints on two sites identified in Schedule B2 – the Constraints Schedule of Significant Woodlands in the South Stormont Township, and Schedule B3 – the Constraints Schedule of Natural Heritage Systems. Based upon the aggregate resource assessments completed and the fact that the sites are subject to licenses for extraction of aggregate resource under the *Aggregate Resources Act*, Ms. Zander is of the opinion that the constraints unnecessary upon the planning analysis she has provided in paragraphs 14 and 15, as follows:

14. ...The constraint illustrations on Schedule B of the Official Plan insofar as they relate to these properties have little relevance for land use planning purposes in that the topography of the lands in question will inevitably change in accordance with extraction activities as they occur pursuant to the relevant licenses. The physical features identified as constraints will inevitably be altered by the licensed activity and the required progressive rehabilitation of the lands which is to be undertaken pursuant to the relevant site plans for the properties under the *Aggregate Resources Act*.

15. Official Plan policies that might otherwise be brought into play by virtue of a constraint illustration will have no application to these licensed lands in any event given that the use of the licensed land will be governed exclusively by the provisions of the *Aggregate Resources Act* and the licenses and applicable site plans issued thereunder.

[58] Ms. Zander concludes that, in her opinion, each of the proposed dispositions requested in the Disposition Table is consistent with the *PPS*, implements the spirit and intent of the United Counties OP with respect to each of the sites and represents good land use planning.

[59] The Tribunal accepts Mr. Mitchell's geotechnical evidence which in turn supports Ms. Zander's uncontroverted planning evidence, which is also accepted in its entirety. The Tribunal is satisfied, and finds that the requested dispositions applicable to each of the identified sites in the Disposition Table, and the Order giving effect to those dispositions in this Motion: has regard for matters of Provincial Interest as set out in s. 2 of the *Act*, is consistent with the *PPS*, and in particular those policies as they relate to

the protection of aggregate recourses; reflects the objectives and related policies of the United Counties OP; and represents good planning in the public interest.

[60] The appropriate Orders have been made following this Memorandum of Decision.

REMAINING APPEALS

[61] With the determination of these four Motions, this now concludes the interest and involvement of MMAH in any further issues and Appeals remaining before the Tribunal.

[62] Of the Appeals, or issues within Appeals that remained active before the Tribunal as of the conclusion of the preceding CMC, only two matters now remain before the Tribunal under this Case File – Appeal 13 brought by Cartwave Realty Limited (“Cartwave”) and Appeal 14 brought by Cornwall Gravel.

Cartwave Realty Limited (Appeal 13)

[63] As indicated previously with the concurrence of Cartwave, the United Counties and the Township of South Stormont, it was determined that it would be appropriate to defer any further dealings with this Appeal relating to the property located at County Road 44 until such time as the Growth Management Study is completed in 2022 and considered by Council for the United Counties.

[64] Mr. Young confirms today that a draft version of the Study is expected in the fall with a final version likely before Council at the end of the year. With the expectation that a meeting of Council will not be convened until January of 2023, and the opportunity to discuss a resolution of the Cartwave Appeal postponed until then, the Tribunal will stand down this Appeal without a fixed date.

[65] This Appeal will accordingly remain in abeyance subject to the following directives:

- (a) The parties will jointly advise the Tribunal on or before **Friday, February 17, 2023**, as to the status of the appeal, and whether a Motion for a consensual determination of the Appeal or a full Hearing on the Merits is requested. If additional time is required by the parties for continued discussion between them, the parties are to also advise as to a further date for the delivery of a status report from the parties;
- (b) if a hearing event to present a settlement of the Cartwave Appeal is to be requested, the parties shall confirm to the Tribunal the earliest date that all parties will be ready to file materials in support of the settlement;
- (c) if a hearing on the merits is requested, the parties shall confirm the earliest date that the parties will be ready to file document briefs or other materials in preparation for the hearing;
- (d) the parties shall also provide any conflict dates for counsel and/or witnesses within a four-month period following the earliest date that the parties will be ready to file settlement materials for a written or video hearing, or ready to file material in preparation for a hearing on the merits of the Appeal, whichever the case may be; and
- (e) Upon receipt of the status report from the parties the Tribunal will, as necessary, schedule a further CMC either by telephone conference call or by video hearing to speak to the form of a Procedural Order and Issues List required for the hearing of the Appeal and scheduling if a hearing on the merits, or to the organization of a settlement hearing or Motion, as the case may be.

Cornwall Gravel Company Limited Appeal (Appeal 14) and the Aggregate Resource Appeals for

[66] The decision and Order of the Tribunal in relation to Motion 4 brought by Cornwall Gravel resolved all outstanding issues in the Appeal brought by it save and

except only for that aspect of the Appeal which relates to the MacLeod Quarries, which was identified as Property 11 on Appendix 1 of the Cornwall Gravel Appeal.

[67] At a recent CMC conducted in relation to other Appeals before the Tribunal, including an appeal referred to the Tribunal under the *Aggregate Resources Act* conducted on May 2, 2022 (Tribunal Case No. OLT-22-001925 and others), a Motion was brought by Cornwall Gravel to consolidate the various proceedings in relation to the MacLeod Quarries property. The Tribunal ordered that these other Appeals be consolidated with that portion of the Cornwall Gravel Appeal under this Case File, limited to the extent that the Appeal relates to the MacLeod Quarries property.

[68] The remaining issues relating to the MacLeod Quarries will accordingly be dealt with within the now consolidated hearing under the Lead Case File No. OLT-22-001925.

ORDERS

CMC Directives

[69] In addition to the Orders below determining the Motions before the Tribunal, with respect to other matters addressed in this Memorandum of Decision, the Tribunal orders and provides the CMC directives contained in this Memorandum of Decision for the purposes of the case management of these Appeals.

[70] To the extent required, and subject to the Tribunal's calendar, the Panel Member will continue to case manage the outstanding Appeal No. 13 brought by Cartwave Realty Limited.

Motion 1 – South Stormont

[71] **THE TRIBUNAL ORDERS** that the Motion brought by the Township of South Stormont is hereby granted and the amended Constraints Schedules B2 and B3

appended as Attachment 1 to this Decision and Order, are hereby brought into full force and effect.

[72] **THE TRIBUNAL FURTHER ORDERS** that the text of s. 9.3.2 is modified as set out in Attachment 2 to this Decision and Order and is hereby brought into force and effect.

[73] **THE TRIBUNAL FURTHER ORDERS** that the United Counties of Stormont, Dundas and Glengarry shall forthwith prepare a new amended and consolidated version of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan, incorporating the Orders made under this Motion, post such amendment on its official website, and notify the public and all appellants, parties, and participants of the Tribunal Case File No. OLT-21-001858 (Legacy Case File No. PL180202) that such new amended and consolidated version has been approved by the Tribunal.

[74] The Tribunal confirms that the Township of South Stormont has withdrawn those portions of its Appeal relating to Tables 9.13 and 3.5 of the text of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan.

[75] **THE TRIBUNAL FURTHER ORDERS** that the time for service of the Notice of Motion by the Township of South Stormont pursuant to Rule 10.5 of the Tribunal's *Rules of Practice and Procedure* is abridged as it was served for the hearing of this Motion.

[76] With these Orders, the Tribunal confirms that all Appeals of the Township of South Stormont have been allowed in part and are now fully determined.

Motion 2 – North Dundas

[77] **THE TRIBUNAL ORDERS** that the Motion brought by the Township of North Dundas is hereby granted and all land use designations within the Township of North

Dundas as depicted in amended Land Use Schedules A1 and appended as Attachment 3 to this Decision and Order, are hereby brought into full force and effect.

[78] **THE TRIBUNAL FURTHER ORDERS** that the text within Policy 9.5 “Special Land Use Area – Township of North Dundas” is modified with the inclusion of the additional “*Mineral Aggregate Reserve/Agricultural Resource Lands Special Land Use Area*” being section 9.5.2. as set out in Attachment 4 to this Decision and Order and is hereby brought into force and effect.

[79] **THE TRIBUNAL FURTHER ORDERS** that the United Counties of Stormont, Dundas and Glengarry shall forthwith prepare a new amended and consolidated version of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan incorporating the Orders made under this Motion, post such amendment on its official website, and notify the public and all appellants, parties, and participants of the Tribunal Case File No. OLT-21-001858 (Legacy Case File No. PL180202) that such new amended and consolidated version has been approved by the Tribunal.

[80] **THE TRIBUNAL FURTHER ORDERS** that the time for service of the Notice of Motion by the Township of North Dundas pursuant to Rule 10.5 of the Tribunal’s *Rules of Practice and Procedure* is abridged as it was served for the hearing of this Motion.

[81] With these Orders, the Tribunal confirms that all Appeals of the Township of North Dundas have been allowed in part and fully determined.

Motion 3 – Coco Paving

[82] **THE TRIBUNAL ORDERS** that, pursuant to section 17(39)(b) of the *Planning Act*, the land use designations of “Extractive Resource Lands (Mineral Aggregate Reserve)” for the lands owned by Coco Properties Corporation as identified and legally described in Attachment 5 to this Decision and Order in OLT Case File No. OLT-21-001858 (Legacy Case File No. PL180202), are hereby brought into full force and effect.

[83] **THE TRIBUNAL FURTHER ORDERS** that the United Counties of Stormont, Dundas and Glengarry shall forthwith prepare a new amended and consolidated version of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan incorporating the Order made under this Motion, post such amendment on its official website, and notify the public and all appellants, parties, and participants of the Tribunal Case File No. OLT-21-001858 (Legacy Case File No. PL180202) that such new amended and consolidated version has been approved by the Tribunal.

[84] With these Orders, the Tribunal confirms that the Appeal of Coco Properties Corporation has been allowed in part and fully determined.

Motion 4 – Cornwall Gravel

[85] **THE TRIBUNAL ORDERS** that those specific directives as set out in the Table of Dispositions/Order below shall hereby be, and the same are, effective as orders of the Tribunal in relation to the identified pit/quarry sites as illustrated in Figures 1, 2, 3, 4 and 5 as set out in Attachment 6 to this Decision and Order.

TABLE OF DISPOSITIONS/ORDERS		
	Property	Order/ Disposition
a.	<u>Cinanni Pit</u> – Property No. 5 on Appendix 1 of the Cornwall Gravel Notice of Appeal	Schedule A-1 of the Official Plan insofar as it relates to the Cornwall Gravel property is to be amended to reflect the designation of <i>Extractive Resource Lands - Mineral Aggregate Reserve (Sand and Gravel Reserve)</i> as illustrated on figure 1 attached hereto
b.	<u>Boucks Hill</u> – Property No. 4 on Appendix 1 of the Cornwall Gravel Notice of Appeal	Schedule B-5 of the Official Plan is to be amended to extend the bedrock overlay over the entire Boucks Hill property as illustrated on figure 2 attached hereto
c.	<u>Iroquois Quarries</u> – Property No. 8 on Appendix 1 of the Cornwall Gravel Notice of Appeal	Schedule A-2 of the Official Plan insofar as it relates to the Cornwall Gravel property is to be amended to reflect the designation of <i>Extractive Resource Lands - Mineral Aggregate Reserve (Priority Bedrock Reserve)</i> as illustrated on figure 3 attached hereto

d.	<u>Seguin Pits</u> – Property No. 16 on Appendix 1 of the Cornwall Gravel Notice of Appeal	Schedule A-4 of the Official Plan insofar as it relates to the Cornwall Gravel property is to be amended to reflect the designation of Extractive Resource Lands - Mineral Aggregate Reserve (Sand and Gravel Reserve) as illustrated on figure 4 attached hereto
e.	<u>Sauve Tait Pit</u> – Property No. 15 on Appendix 1 of the Cornwall Gravel Notice of Appeal	Schedule A-3 of the Official Plan insofar as it relates to the Cornwall Gravel property is to be amended to reflect the designation of Extractive Resource Lands - Mineral Aggregate Reserve (Sand and Gravel Reserve) as illustrated on figure 5 attached hereto
f.	<u>A. MacDonald / MacPhee Pit</u> – Property No. 10 on the Cornwall Gravel Notice of Appeal	Schedules B-2 and B-3 of the Official Plan insofar as those schedules relate to the Cornwall Gravel property are to be amended to remove the woodland constraint as presently illustrated.
g.	<u>Apple Hill Quarry</u> – Property No. 1 on the Cornwall Gravel Notice of Appeal	<p>Schedules B-2 and B-3 of the Official Plan insofar as those schedules relate to the Cornwall Gravel property are to be amended to delete the woodland constraint within the boundaries of the property designated as Extractive Resource Lands (Licensed Pit & Quarry).</p> <p>Schedule B-3 of the Official Plan insofar as it relates to the Cornwall Gravel property is to be amended to delete the illustration of LSW within the boundaries of the lands designated as Extractive Resource Lands (Licensed Pit & Quarry).</p>

[86] **THE TRIBUNAL FURTHER ORDERS** that the United Counties of Stormont, Dundas and Glengarry shall forthwith prepare a new amended and consolidated version of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan incorporating the Order made under this Motion, post such amendment on its official website, and notify the public and all appellants, parties, and participants of the Tribunal Case File No. OLT-21-001858 (Legacy Case File No. PL180202) that such new amended and consolidated version has been approved by the Tribunal.

[87] With these Orders, the Tribunal confirms that the Appeal of Cornwall Gravel Company Limited has been allowed in part and fully determined, save and except only

for that aspect of its Appeal, in relation to the MacLeod Quarries which has been consolidated with other related proceedings before the Tribunal.

“David L. Lanthier”

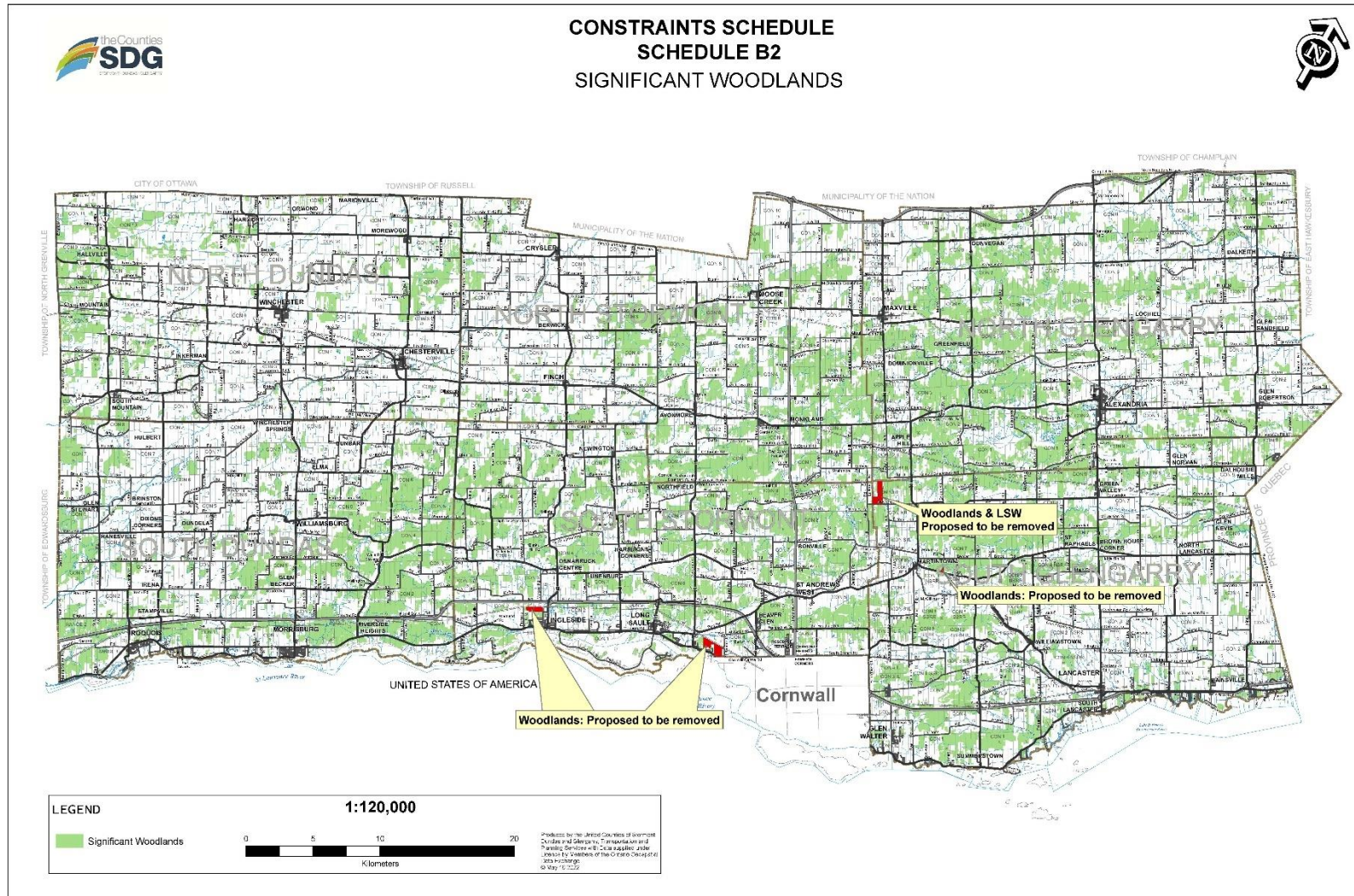
DAVID L. LANTHIER
VICE-CHAIR

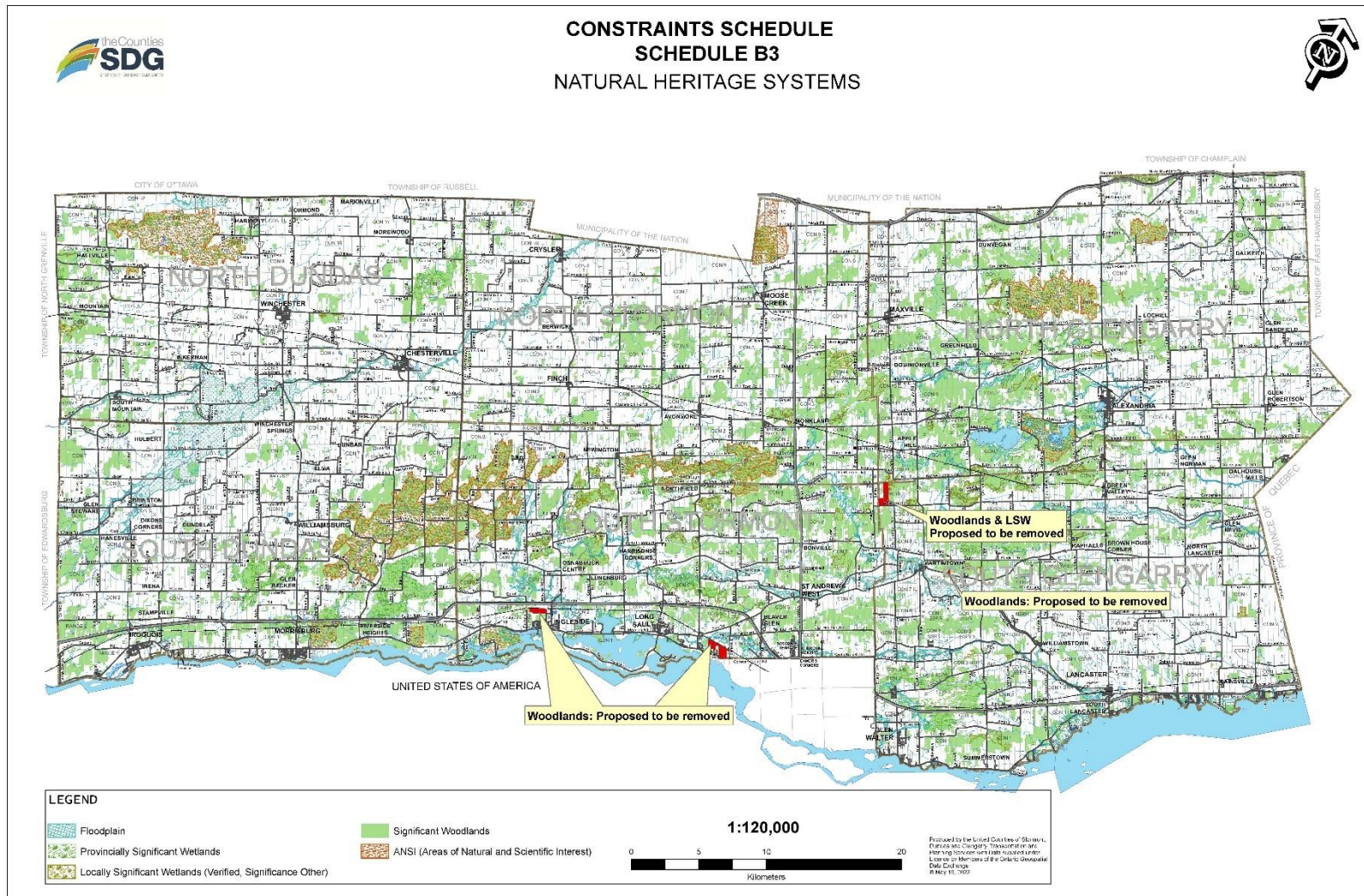
Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

OLT-21-001858 – Attachment 1A



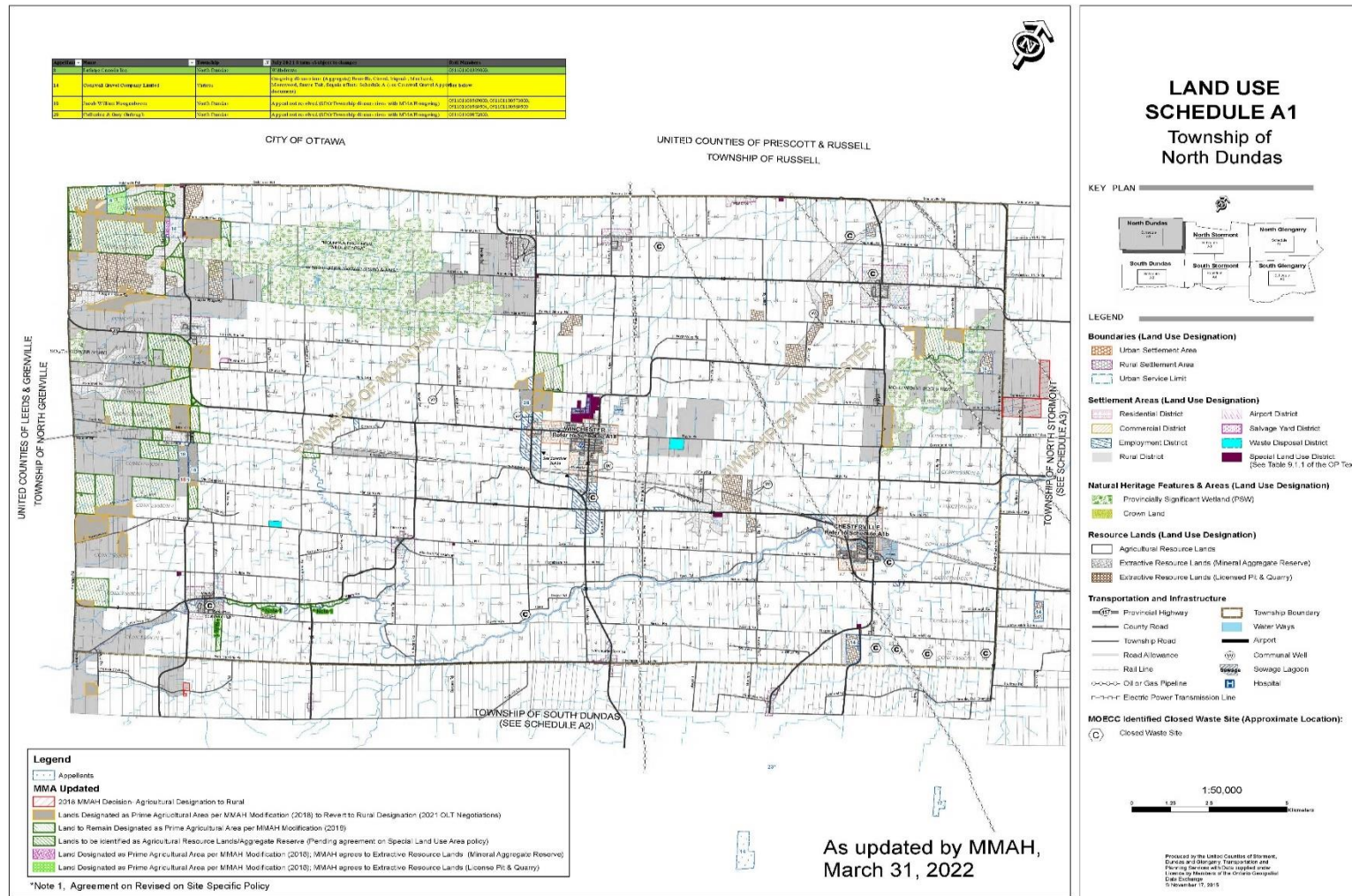


OLT-21-001858 – Attachment 2

The following text modification of section 9.3.2 of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan shall come into force and effect:

These lands fall within the Ministry of Transportation's (MTO) permit control area. Due to the limited frontage on County Road 35, the MTO requires that an Interchange Highway Access Management Plan be completed to ensure a plan is in place and understood by any developer. The County and Township of South Stormont will proactively work with MTO to develop an Interchange Highway Access Management Plan. A requirement for an Interchange Highway Access Management Plan shall also be triggered by a specific proposal.

OLT-21-001858 – Attachment 3



OLT-21-001858 – Attachment 4

The following text modification in section 9.5 of the United Counties of Stormont, Dundas and Glengarry 2017 Comprehensive Official Plan shall come into force and effect:

9.5 SPECIAL LAND USE AREA – TOWNSHIP OF NORTH DUNDAS**9.5.2 Mineral Aggregate Reserve/Agricultural Resource Lands Special Land Use Area**

The Mineral Aggregate Reserve/Agricultural Resource Lands Special Land Use Area are considered prime agricultural areas, which are also identified as having significant tertiary sand and gravel resources in accordance with the Ontario Geological Survey, Aggregate Resources Inventory (ARIM MAP 167-1A), and are in close proximity to the City of Ottawa market.

These lands shall be protected and preserved over the long-term for aggregate extraction and agricultural purposes. Permitted uses in this Special Land Use Area shall be in accordance with the policies of Section 5.3 of this Official Plan. In addition, for the purposes of lot creation, the “Agricultural Resource Lands” land division review criteria outlined in Section 8.12.13.2.7 of this Official Plan shall apply.

Mineral aggregate extraction may occur within this Special Policy Area in accordance with Section 5.3.2 of the Official Plan. Rehabilitation to agricultural uses shall be encouraged, and shall occur in accordance with Section 5.3.2 of the Official Plan and the terms set in the Aggregate Resources Act licence.

OLT-21-001858 – Attachment 5**SCHEDULE "A"**

Property Description

PIN: 601410277

Legal Description: FIRSTLY: PART OF LOT 6, CONCESSION 5 CORNWALL, PART 1, PLAN 52R7636 AND PARTS 4 AND 5, PLAN 52R7839; SECONDLY: PART OF LOTS 4 AND 5, CONCESSION 5 CORNWALL, PART 6, PLAN 52R7839; THIRDLY: PART OF LOT 7, CONCESSION 5 CORNWALL, PART 1 PLAN 52R7839; FOURTHLY: PART OF THE ROAD ALLOWANCE BETWEEN LOT 6 AND LOT 7, CONCESSION 5, PARTS 2 AND 3 52R7839 (CLOSED BY BY-LAW 2014-015 REGISTERED AS ST61887) TOWNSHIP OF SOUTH STORMONT

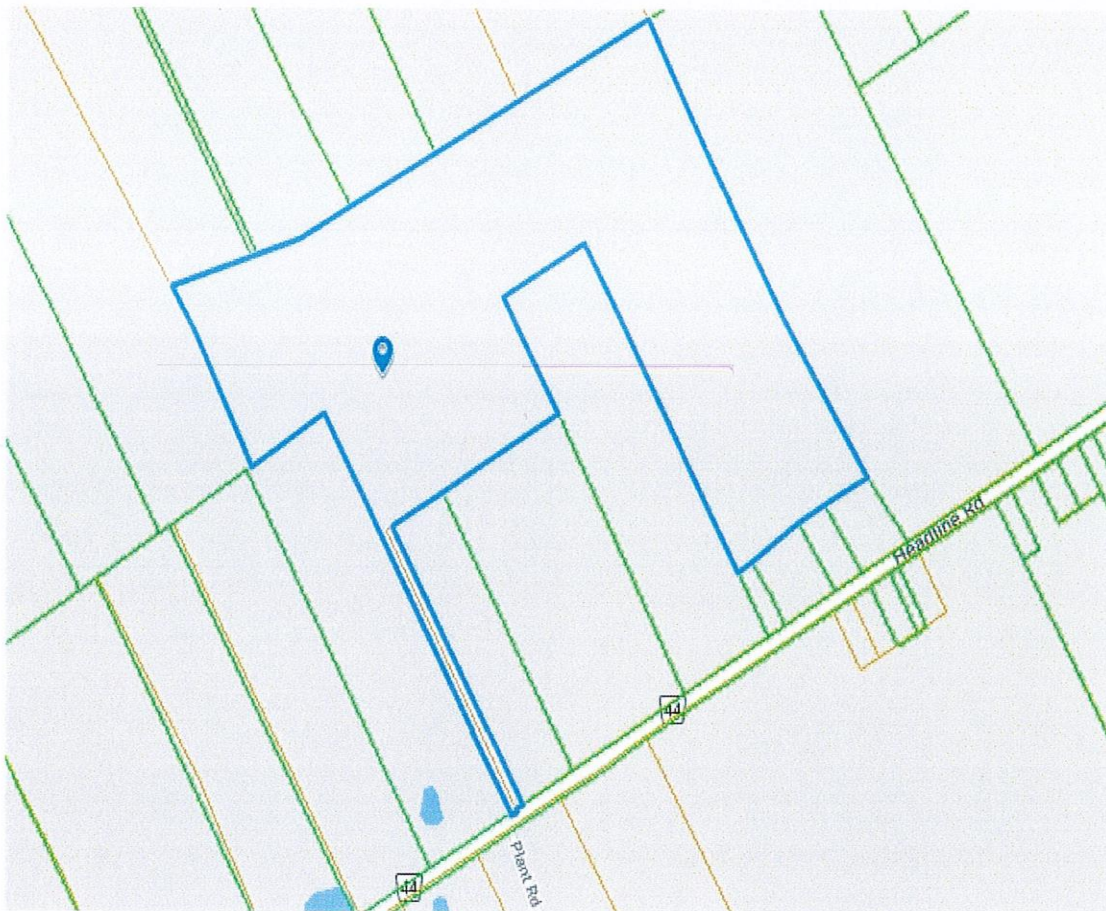


Figure 1

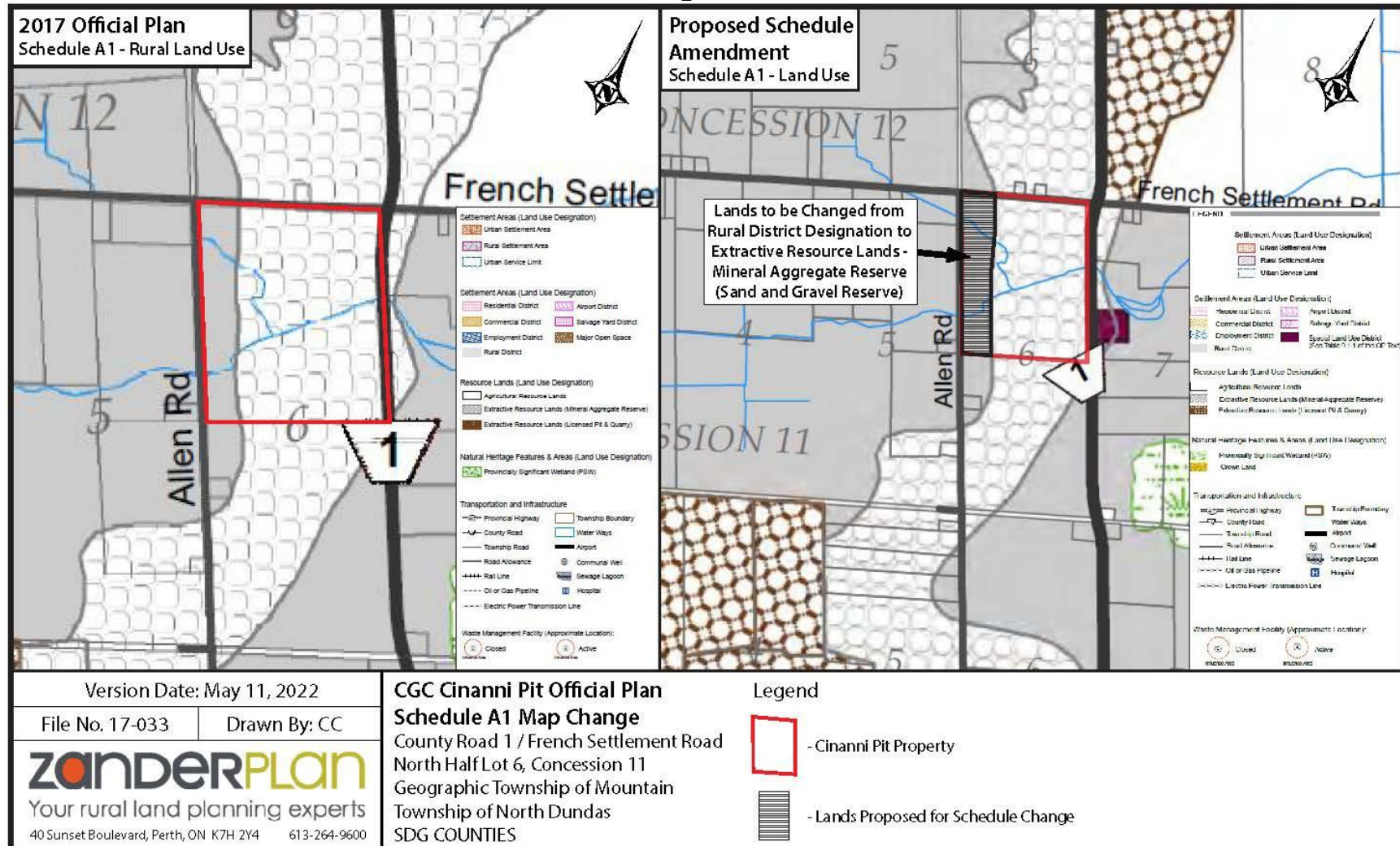


Figure 2

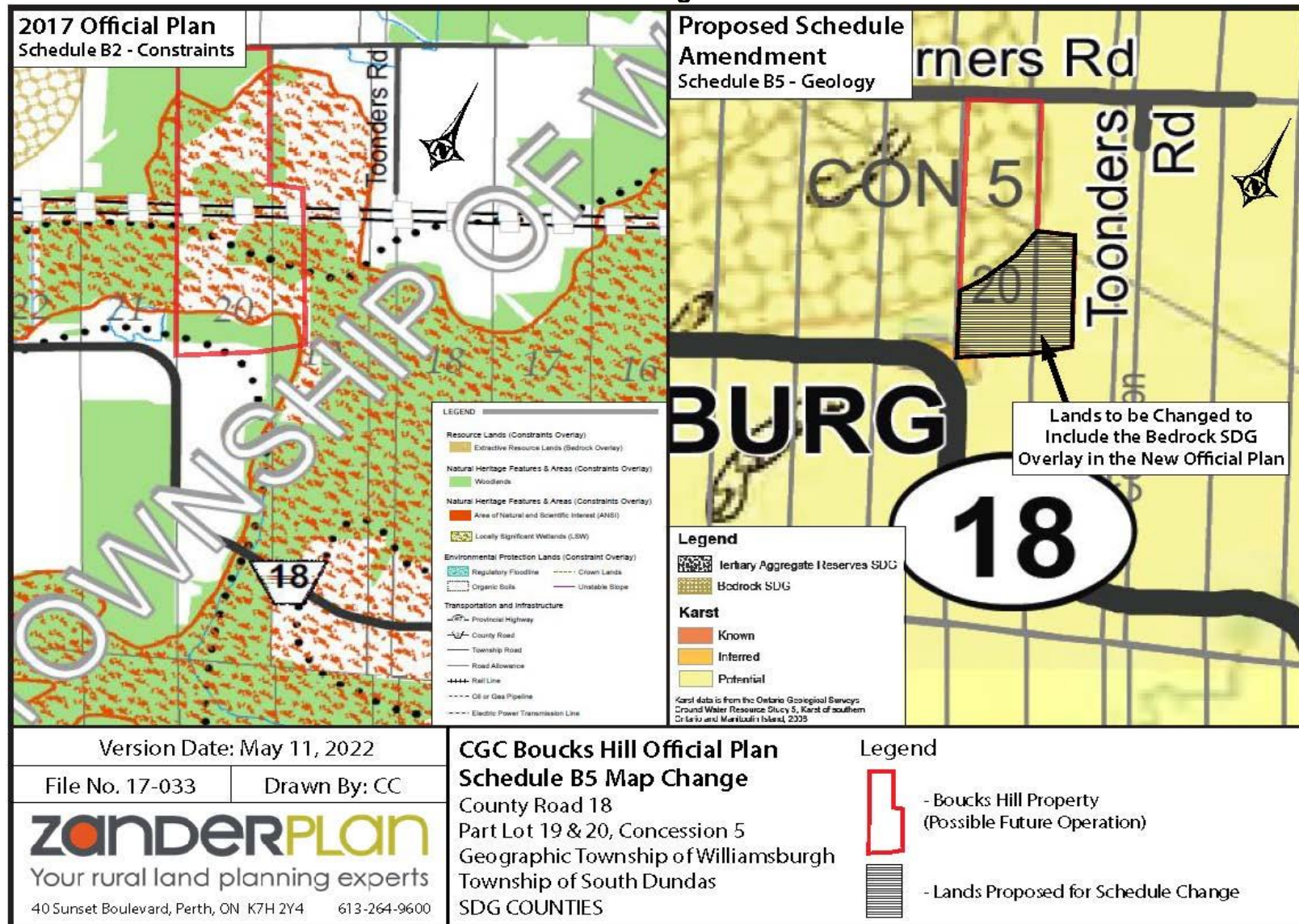


Figure 3

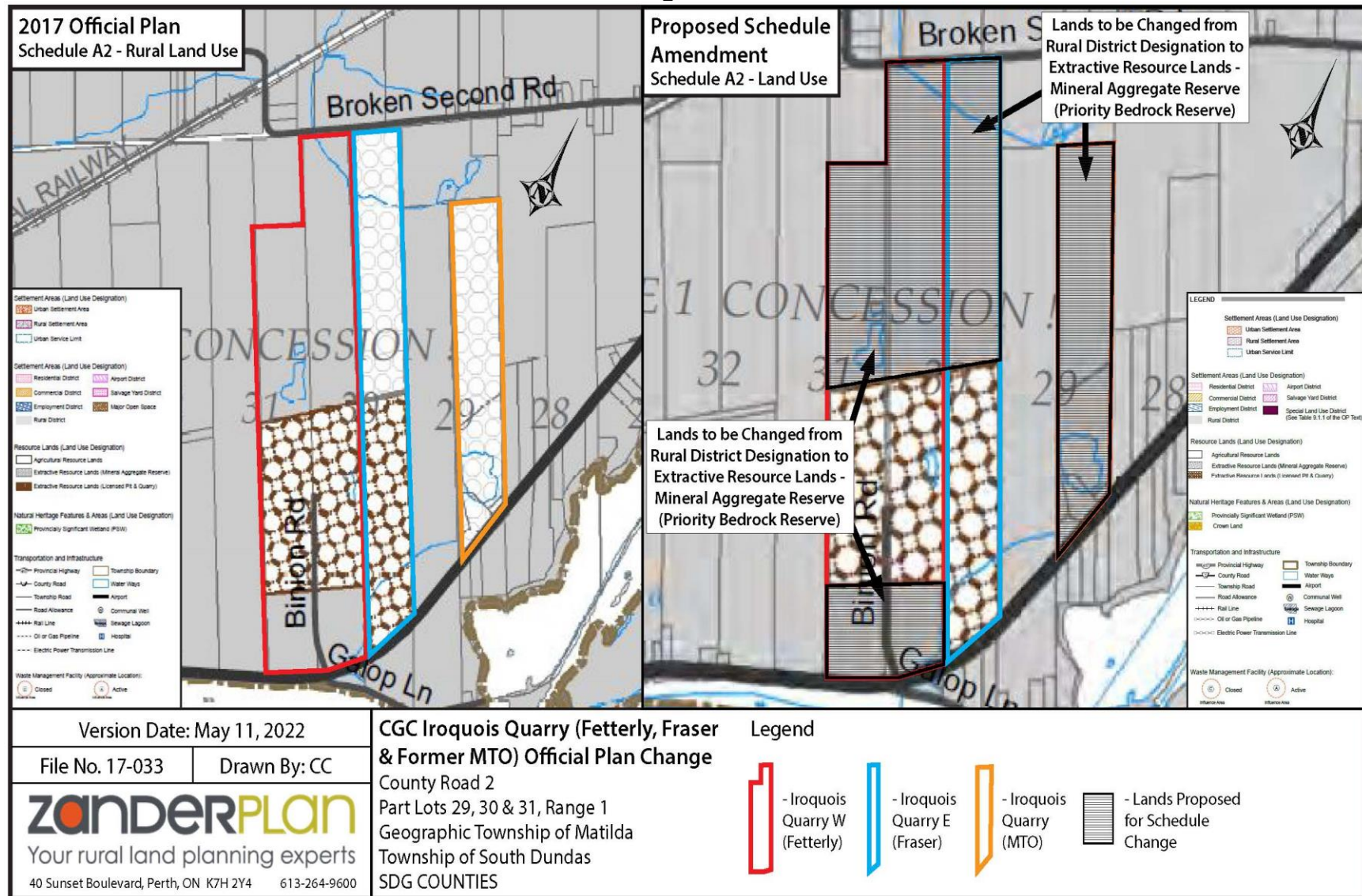


Figure 4

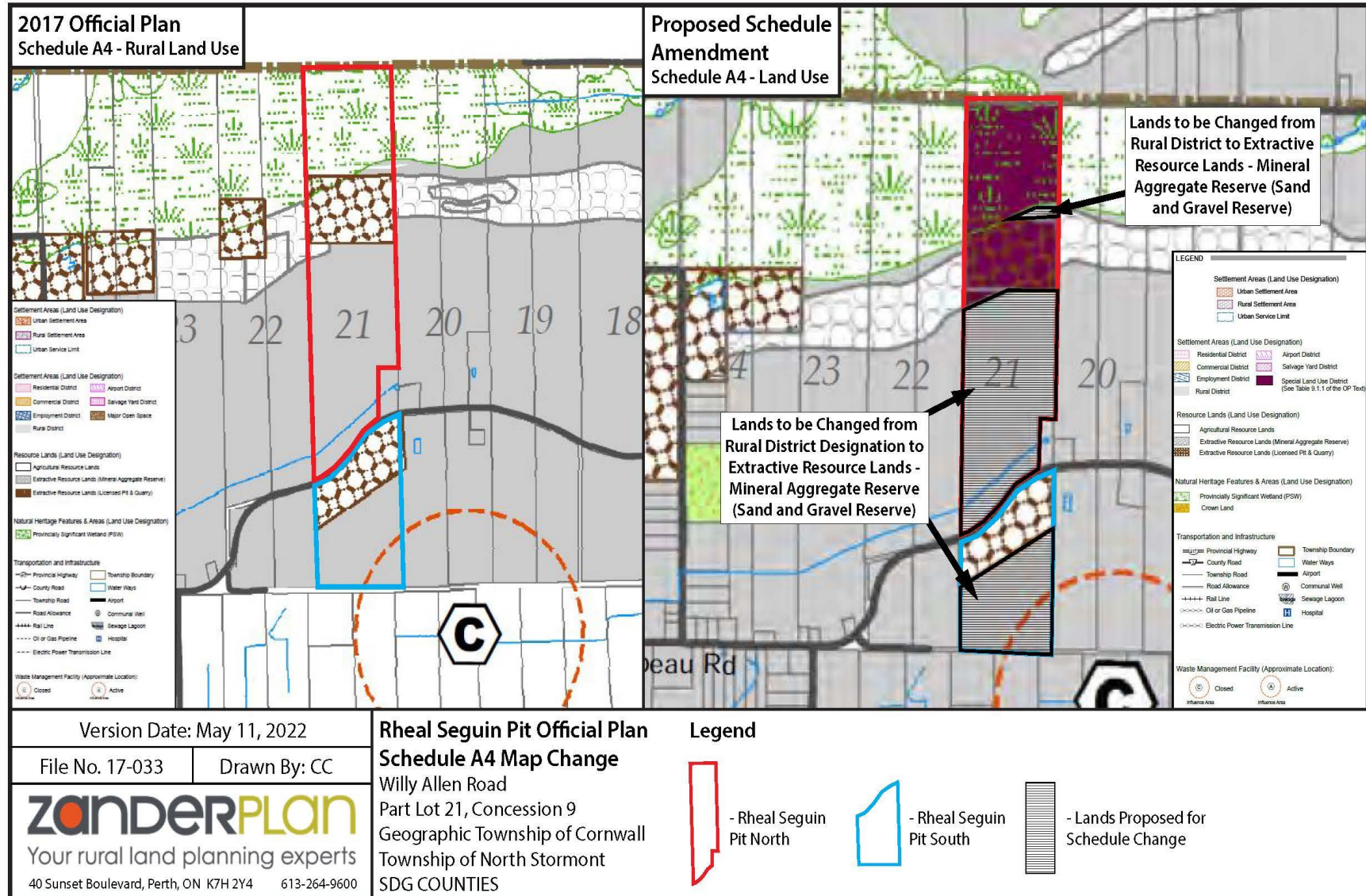


Figure 5

