



Date: November 22, 2010

File: C06W12.002

PLANNING, DESIGN & DEVELOPMENT COMMITTEE

DATE: December 13, 2010

Subject: Norval Quarry Rezoning Application Status and Aggregate
Resources Act Objection
Ward 6 (File: C06W12.002)

Contact: David Waters, Manager, Land Use Policy (905-874-2074)

Overview:

- This report provides an update of a rezoning application submitted in early December 2008 by Brampton Brick that proposes the development of a shale quarry, and recommendation on the associated Aggregate Resource Act (ARA) licence application.
- Brampton Brick submitted an application for an Aggregate Licence to the Ministry of Natural Resources (MNR) in August 2010. The re-zoning and licence applications can be processed concurrently. An aggregate licence however, cannot be issued without the proper zoning in effect. If the applicant cannot secure the proper zoning, the licence cannot be issued. If the applicant is unable to complete the aggregate application process within a two-year period, the Ministry will deem the application to be withdrawn.
- The City has retained peer reviewers to assist in the evaluation of the technical reports submitted by Brampton Brick, in support of the planning and aggregate licence applications.
- Under the Aggregate Resources Act, Brampton Brick has initiated the 45-day public notification period and a public information session is scheduled for November 30, 2010. The objection period is now open, but closes on December 20, 2010.
- This report recommends filing an objection with respect to the application, to the MNR, on the grounds that there are concerns with planning, environmental, transportation and social impact issues.
- Once the conclusions of the peer review exercise are complete and have been thoroughly reviewed, Planning staff will again report to Planning, Design and Development Committee

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Recommendations:

1. **THAT** the report from David Waters, Manager, Land Use Policy, Planning, Design and Development, dated November 22, 2010, to the Planning, Design and Development Meeting of December 13, 2010, re: **Norval Quarry Rezoning Application and Aggregate Resources Act Objection – Ward 6** (File: C06W12.002), be received;
2. **THAT** City staff be directed to respond to the Ministry of Natural Resources and the Applicant (Brampton Brick), advising that the City of Brampton objects to the proposed Norval Quarry licence application under the Aggregate Resources Act;
3. **THAT** staff report back to Planning, Design and Development Committee with the final results of the peer reviews, and,
4. **THAT** the City Clerk forward a copy of this staff report and Council resolution to the Ministry of Natural Resources, Region of Halton, Town of Halton Hills, Region of Peel, Credit Valley Conservation Area and Brampton Brick, and those area residents/ stakeholders who have expressed an interest in the proposed quarry and who have contacted the Planning, Design and Development Department.

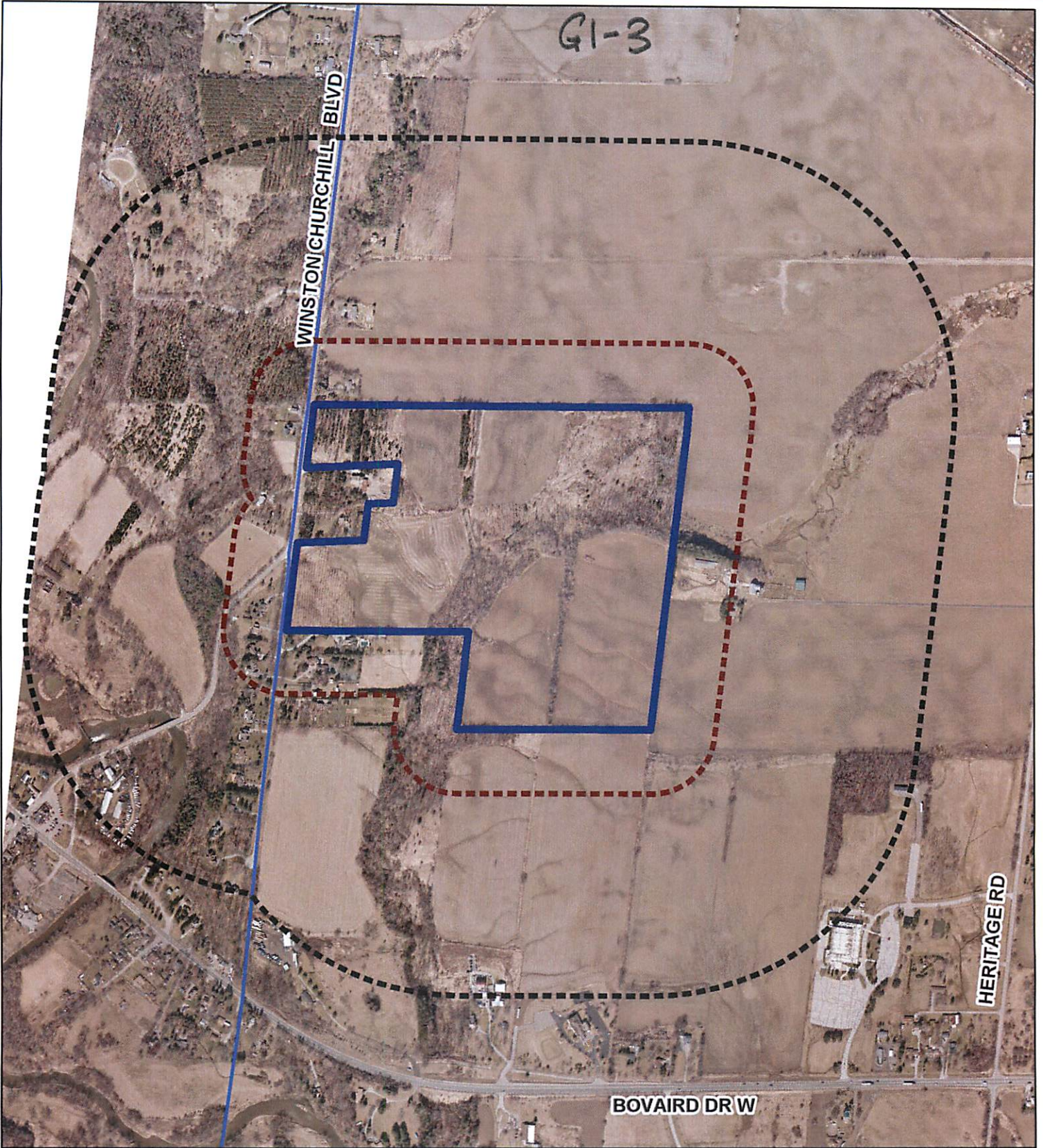
Background:

In December 2008, Brampton Brick submitted a planning application to the City of Brampton to rezone 34.9 hectares (97 acres) on the east side of Winston Churchill Boulevard, north of Old Pine Crest Road (see Figure 1 for map of subject lands, Figure 2 for current OP designations and Figure 2 for the current zoning designations). These lands are presently designated in the Brampton Official Plan as Greenbelt. The Greenbelt Plan designates the subject property as Protected Countryside and Natural Heritage.

The Greenbelt Plan permits the extraction of shale, subject to satisfying certain tests under the Greenbelt Plan. These tests are being evaluated as part of the City's planning review process. Proposals for shale extraction in the Greenbelt Plan do not require an amendment to permit the aggregate extraction use. Notwithstanding the Greenbelt policies, the approval of mineral extraction operations is subject to rezoning (City of Brampton) and licensing process under the Aggregate Resources Act (Ministry of Natural Resources). This process includes rigorous evaluation and assessment, including multi-agency plan review.

The applications are also subject to the Northwest Brampton Policy Area policies in the Brampton Official Plan (Section 4.15).

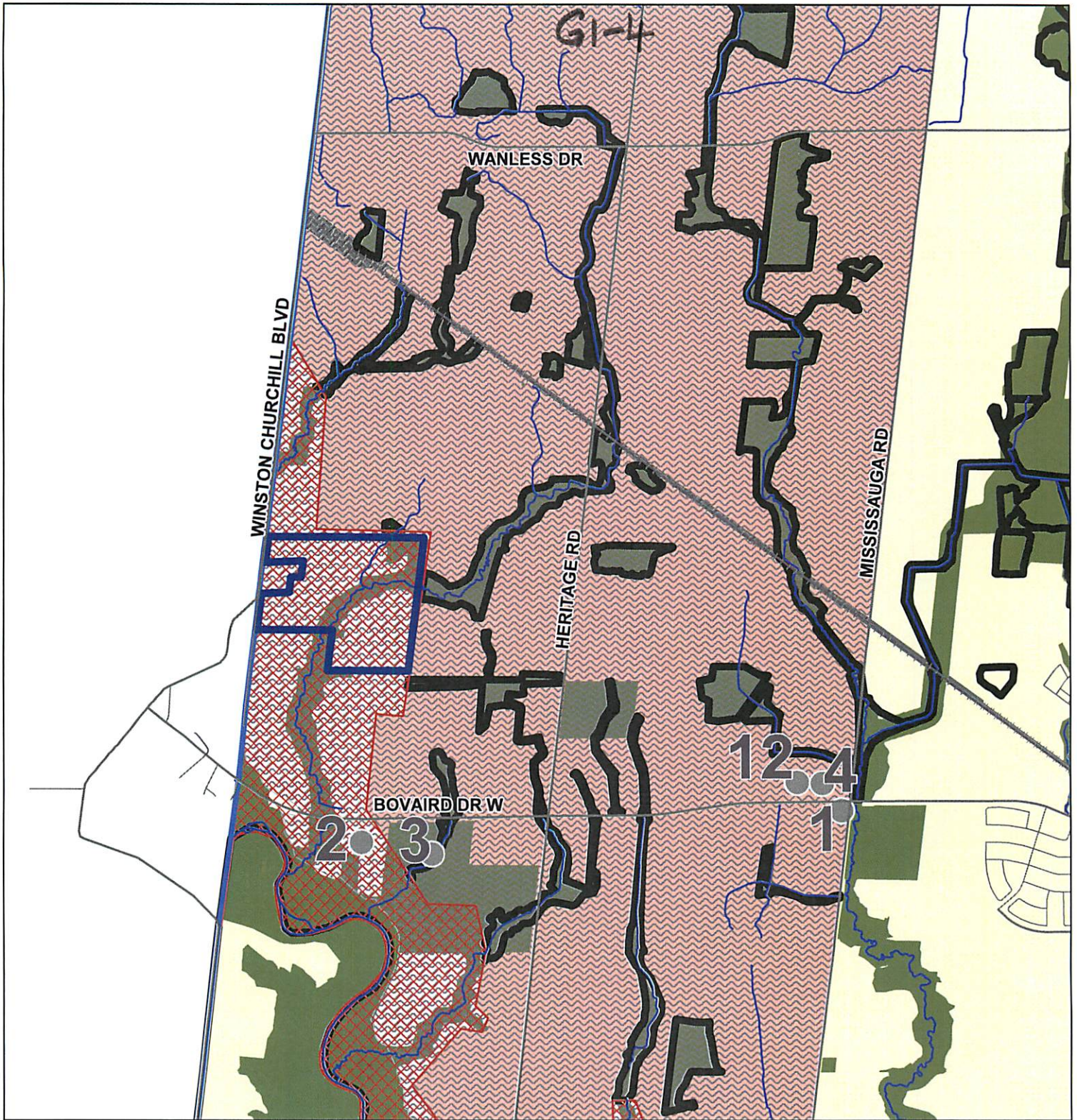
The purposes of this report are to:






AERIAL PHOTO DATE: MARCH 2010

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|--|----------------------------|---|----------------------------|
|  | SUBJECT LANDS |  | 500 METRE BUFFER FROM SITE |
|  | 120 METRE BUFFER FROM SITE |  | CITY LIMIT |

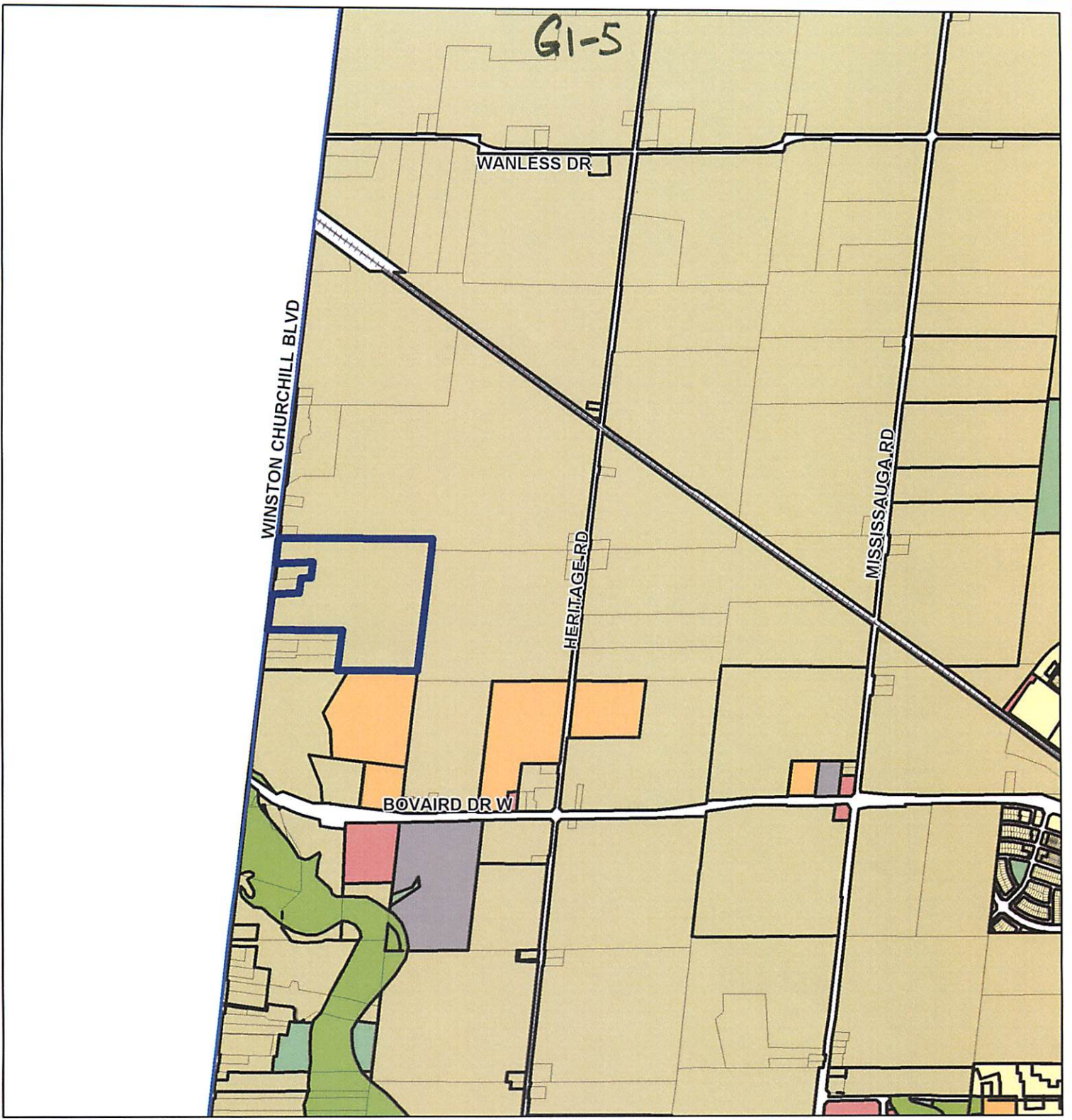















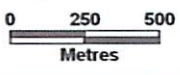
EXTRACT FROM SCHEDULE A (GENERAL LAND USE DESIGNATIONS) OF THE CITY OF BRAMPTON OFFICIAL PLAN

- | | | | | | |
|--|---------------|---|--------------------------|---|---|
|  | SUBJECT LANDS |  | APPEALED TO THE OMB |  | N-W BRAMPTON URBAN DEVELOPMENT AREA |
|  | OPENSAPCE |  | CORRIDOR PROTECTION AREA |  | PROVINCIAL GREENBELT AREA/PROTECTED COUNTRYSIDE |
|  | RESIDENTIAL |  | MAJOR WATERCOURSE |  | SPECIAL LAND USE POLICY AREA
<small>SEE SECTION 4.13</small> |





- | | | | |
|---|--|---|--|
|  SUBJECT LANDS |  INDUSTRIAL |  RESIDENTIAL |  CITY LIMIT |
|  ZONING BOUNDARY |  FLOODPLAIN |  OPEN SPACE |  RAILWAY |
|  AGRICULTURAL |  COMMERCIAL |  INSTITUTIONAL | |



- provide a status update on the rezoning application and the ARA licence application for the proposed Norval Quarry in the City of Brampton;
- provide an update on the work completed by the Brampton Aggregate Advisory Committee (BARC) and the Brampton Agencies Aggregate Review Team (BAART);
- provide an overview of the City's peer review process for the evaluation of the technical reports submitted by Brampton Brick;
- provide an overview of the opportunities for the City and the public to participate in the Applicant's public notification period, in accordance with the Aggregate Resources Act; and,
- recommend that the City file an objection to Brampton Brick's licence application, under the Aggregate Resources Act.

CURRENT SITUATION

The Proposal

The existing land use around the proposed shale quarry is predominantly rural and agricultural, with a small community of estate residential dwellings to the south of the subject site, on Old Pine Crest Road. Appendix A illustrates existing conditions and Appendix B shows the proposed operational plan and the excavation area of 9.35 hectares (about 27% of the subject site).

The final rehabilitation plan (see Appendix C) proposed by the Applicant implies that their long term plan is to return lands for agricultural purposes in 30-years. Site plan drawings and technical reports have been provided to explain the operations, monitoring and rehabilitation plans. A thorough review of all the technical reports and how they build on each other is required.

The proposed quarry site is identified as part of the Natural Heritage System within the Protected Countryside designation of the Greenbelt Plan. Extraction is permitted within the Natural Heritage System of the Protected Countryside, subject to conformity with Section 4.3.2 of the Greenbelt Plan. Brampton Brick's natural heritage technical report identifies ten vegetation communities. Some key ecological features and natural heritage features identified include 11 Butternut trees, which are classified as endangered tree species, watercourses and provincially protected wetlands. The City is concerned that the ecological and terrestrial environment will be impacted.

Brampton Brick's proposed haul route, from the Norval Quarry site to the processing plant on Wanless Drive, is to travel along Winston Churchill Boulevard north to Mayfield Road, then easterly to Hurontario Street, then south to Wanless Drive. It is

projected by the proponent that the proposed quarry would generate about 30 trucks a day, based on a ten (10) hour operation, from 7am to 5pm. Brampton Brick's ARA Site Plan report also indicates that a Road Occupancy Permit application was filed to enable the Region of Peel to construct any required quarry entrance improvements concurrently with the widening of Winston Churchill Boulevard reconstruction.

The Rezoning Application

In November 2008, Brampton Brick submitted a planning application to the City of Brampton to rezone lands on the subject site in order to permit the extraction of shale and related uses. As per the requirements of the Planning Act, the City deemed the application complete on January 6, 2009. The applicant was advised that a complete application submission does not constitute support of the application, and that additional documentation may be required as the application is processed.

To assist in assessing the planning application and supporting materials, Mark Dorfman was retained as the City's Aggregate Advisor in December 2009. Mr. Dorfman was most recently involved with the proposed Rockfort Quarry Ontario Municipal Board Hearing, as aggregate planning consultant to the Town of Caledon.

In support of the rezoning application, the applicant submitted ten technical studies to the City to address planning, surficial soils and agriculture, natural environment, noise control, cultural heritage, archaeology, hydrogeology and hydrology, air quality, transportation and visual assessment. The ARA materials, received at the end of August 2010, essentially updated the technical reports provided as part of the planning application. The City is in the process of completing a thorough review of these reports. Further, the City is waiting on the results from peer reviewers to assist technical interpretation and identify potential gaps in the reports in order to complete a comprehensive review of the proposed quarry.

The next steps in the processing of the re-zoning application include a status report to Planning, Design and Development Committee in Spring 2011, to provide an update on final results of Peer review. Additionally, at this meeting, Planning staff will seek direction on hosting a statutory public meeting under the Planning Act, before the end of June 2011. Planning staff anticipates bringing a recommendation report on the rezoning application in Fall 2011. For additional information on the tentative timeline for processing the rezoning application, please refer to Appendix D.

The ARA Licence

The Applicant submitted the application for an Aggregate Licence to the MNR on August 12, 2010. The ARA Licence application package was deemed complete by MNR on Sept 2, 2010. Copies of the ARA technical reports were received by the City on September 21, 2010 and are available to the public for review. Stakeholders were advised by the Planning Department that the technical reports were available

to review. However, at that point, the public notification period to the ARA had not been initiated by the Applicant.

The processing of a rezoning application can be ongoing while a licence application under the Aggregate Resources Act is being reviewed. Without the zoning in force, a license cannot be issued by the MNR. If the applicant is unable to complete the application process within the required two-year period, then the application is deemed withdrawn by the MNR. Aggregate proponents initially submit applications for re-zoning under the Planning Act, followed by the ARA Licence application under the Aggregate Resources Act.

As part of the application licence materials, the Applicant's technical reports were submitted to MNR, in some instances with more detail (as in the case of hydrogeology) and essentially updated the technical reports that were provided to the City of Brampton as part of the re-zoning application. These updated technical reports will be reviewed by the City's peer review consultants. Technical reports relating to Surficial Soil, Transportation and Air Quality were not updated and therefore, the 2008 Brampton Brick Planning Report will be reviewed.

The Applicant initiated the 45-day notification and consultation period on November 4, 2010, which includes mandatory notification. The notification period begins when all details of the information session are published in the local newspaper, the Brampton Booster (the Brampton Guardian is known as the Brampton Booster on Thursdays). The City was advised by Brampton Brick's Agent, that residents within 120 m received notice by Registered Mail; those within 500 m received notice by regular mail; and the affected Agencies by Xpresspost. The City issued a stakeholder update when the public notification period was initiated and posted a copy of the notice on the City's webpage.

Organized by the Applicant, members of the public are invited to attend the open house, scheduled for November 30, 2010 at the Brampton Brick headquarters in Brampton, where the applicant is expected to present and explain all the details of the proposal. Members of the public or agencies can submit written objections to the MNR and Brampton Brick within the 45-day notification period, which concludes on December 20, 2010. The Applicant then has up to two years (including the 45 day public notification period) to attempt a resolution to the concerns received during the public notification period.

At the conclusion of the 45 day public notification period, the Applicant will contact the objectors to try to resolve the objections. The applicant is then required to send a letter to the objector proposing a solution to the objection. The objector must respond to Brampton Brick within 20-days indicating that the objection has not changed or suggest recommended resolution. If the objector does not respond within the 20-day period then the objection will be deemed to be withdrawn. It is imperative that the City reaffirms an objection when initial contact is made by the Applicant.

If outstanding issues remain, the applicant may ask the Minister of Natural Resources to refer the application to the Ontario Municipal Board (OMB) for a decision. If no decision has been rendered on the planning application at the time of the MNR referral to the OMB, or the municipality does not agree to the rezoning, the Applicant may appeal the rezoning planning application to the OMB as well, to hear the matter together. A decision, therefore, would be made by the OMB concerning the rezoning application and the ARA licence application.

City staff is recommending an objection be filed to the ARA application since the subject site is not properly zoned for the use and because of the outstanding concerns related to land use planning, transportation, natural environment, hydrogeology, surficial soil, visual, noise, archaeology, cultural heritage and social impact. Additionally, the peer reviews are outstanding and results will not be available for review before the end of the 45 day public comment period.

Brampton Aggregate Review Committee – BARC

The Aggregate Review Committee consists of City staff from Planning, Design & Development, Works & Transportation, Legal and the two Ward Councillors.

The objectives of the Aggregate Review Committee are to:

- provide clarity for the public, commenting agencies and the applicant;
- direct the applicant to supply all information needed to undertake a comprehensive plan review of the application;
- co-ordinate and streamline all government staff actions including processing, circulating and commenting on the planning application;
- facilitate effective review and comment by the public by providing information early in the process and responding to questions and issues; and,
- reduce duplication of effort and resources required to review the application.

The BARC has met regularly since receiving the planning application to review the material and provide direction. BARC meetings ensure that there is a coordinated understanding and decision making process among various City departments. To date, BARC has reviewed the peer review terms of reference, attended a peer review orientation session and stakeholder meet and greet. Additionally, some members of BARC attended a site walk of the proposed quarry site, with the peer review consultants and the representatives from Brampton Brick to better comprehend the proposal and dialogue with the peer reviewers on what information and City resources they may require to complete their assessment of the Applicant's technical reports.

Brampton Agency Aggregate Review Team - BAART

The BAART is composed of agencies that have an interest in the Norval Quarry rezoning application. Membership includes, Peel Region, Halton Region, Halton Hills, Credit Valley Conservation Authority and the MNR. BAART meets at regular junctions in the project, generally after the BARC meets, to discuss details and share information as a group. Each agency follows their own planning approval process and makes their own decisions as related to their involvement on this file.

BAART members have been instrumental in reviewing and commenting from their specific perspectives, on the terms of reference for the peer review exercise and attending an orientation meeting with the peer reviewers. Some BART members attended a stakeholder meet and greet, which allowed for a better synergy with the coordination of the application as it impacts more than one jurisdiction.

Public Consultation

City staff communicates regularly with the public, area residents and stakeholders from the Norval Pit-Stop Group and the North West Brampton Landowners Group. To better enhance an accountable and transparent process, stakeholder updates alert interested stakeholders and the Applicant, Brampton Brick, to key steps, milestones and information, as they becomes available. Stakeholder updates have been posted regularly to the City's webpage, including information about the proposal itself.

The Peer Reviews

In the City issued request for proposals, potential peer reviewers were solicited to assist the City in reviewing the technical reports provided by Brampton Brick in support of their rezoning and ARA licence application. In October 2010, the City retained consultants to evaluate and assess the technical report and related materials submitted to the City by Brampton Brick. The peer reviewers will assess if there are gaps in the issues/conclusions, the effectiveness of the methodology, relevance of information used to inform assumption, as well as an evaluation of mitigation and monitoring proposed and how this report reflects the present policy context.

In order to better assess the proposed operational plan, a comprehensive review of the technical studies must be undertaken. This will include collaboration among complementary disciplines in order to provide a holistic understanding of the proposal. Accordingly, the conclusions for the peer reviewers, will assist City Staff in evaluating the rezoning application and commenting on the ARA application.

The list of consultants retained by the City in the peer review exercise is set out below:

Technical Report Area	Peer Reviewers
Air Quality	RWDI Air Inc.
Natural Environment	EcoPlans Limited
Transportation	IBI Group
Archaeology	URS Canada Inc/Unterman McPhail Associates
Visual	Dillon Consulting Limited
Cultural Heritage	Unterman McPhail Associates
HydroG	Genivar Consultants Limited Partnership
Noise	Howe Gastmeier Chapnik Limited (HGC Engineering)
Soil	AgPlan Limited

As the technical reports submitted as part of the ARA application essentially revise the original technical reports submitted as part of the Planning Report, the peer reviews will conduct their assessment on the technical reports that are most up to date. As Transportation, Air Quality and Soil technical reports were not revised, the 2008 reports will be peer reviewed.

City staff, BARC and BAART met with the peer reviewers for an orientation meeting on October 27, 2010. Affected stakeholders attended a meet and greet with the peer reviewers. Representatives from Brampton Brick also met the stakeholders at an organized site walk around the subject site.

A final Peer Review Report, with conclusions from the peer review exercise, is not expected until early 2011. No preliminary issues or draft documents will be publically available until then. Once available, the peer review report will be posted on the project webpage and will be available for review at the Planning Department.

In addition to the peer reviews, Planning Staff is undertaking a review of the land use impacts, including social impacts to the community. The City will be retaining a specialized consultant to undertake a City-initiated social impact study/review to assess the direct and indirect effects on the community. The social impact evaluation will consider issues such as: avoidance, minimization, mitigation, monitoring and compensation measures and the degree to which the Applicant has considered these impacts in their proposed operation. A social impact study is useful from the City's perspective to objectively understand how the public may or not be impacted by the proposed operation and mitigation during the life of the extraction and rehabilitation.

City staff is recommending that the ARA licence application not be supported because of staff concern about potential impacts on the natural environment, land

use planning, transportation and people that may result for the quarry operation. Once the findings of the peer reviews are available (anticipated for early 2011), City staff will put forth a recommendation report including detailed analysis of the potential impacts that may arise from the quarry operation.

Rockfort Quarry

Although not the same scale or scope, the recent experience and Ontario Municipal Board (OMB) decision to deny the proposed Rockfort Quarry in Caledon provide the City of Brampton some insight into what factors the OMB considered significant. James Dick Construction Limited (JDCL) submitted an official plan amendment and rezoning application to permit a limestone quarry in the Town of Caledon, in the area of Winston Churchill Boulevard and Old Baseline Road. The proposal involved the extraction of 39 million tonnes of aggregate resource from 58 hectares in five phases over 30 years. Once extraction was completed, the Applicant proposed a 50 year rehabilitation plan. The Board, in a decision issued on November 12, 2010, denied JDCL on the grounds that potential impacts to the environment were too great and alternatives to aggregate for infrastructure construction should be considered. The Board also stressed importance on adequate monitoring and mitigation plans, particularly related to water resources, and questioned whether the MNR had the resources to oversee these important aspects.

CONCLUSION

Brampton Brick has submitted a re-zoning application to the City of Brampton and an ARA licence application to the MNR to permit the operation of a shale quarry. The ARA will issue a licence only if the zoning to allow the quarry is in force.

Planning staff seeks direction to file an objection to Brampton Brick's ARA licence application during the 45-public notification period. The ARA licence materials were received in August 2010, which updated several of the technical reports submitted as part of the re-zoning application. The Peer Reviews have been initiated but the results will not be available until early 2011. Technical information and planning issues are still being evaluated and assessed.

Once the conclusions of the peer review exercise are complete, and have been thoroughly reviewed, Planning staff will again report to Planning, Design and Development Committee.

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Respectfully submitted:

Original Signed By

Original Signed By

Adrian Smith, MCIP, RPP
Director, Planning Policy and Growth
Management

John B. Corbett, MCIP, RPP
Commissioner, Planning, Design
and Development

Authored by: Natasha D'Souza and David Waters

Attachments:

- Appendix A Existing Conditions
- Appendix B Operational Plan
- Appendix C Final Rehabilitation Plan
- Appendix D Tentative timeline for processing the rezoning application

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Planning, Design and Development

Norval Quarry C06W 12.002

Proposed Timeline for Planning Application

- Mid-October 2010 - City of Brampton retains consultants to peer reviewer component studies
- November 2010 – preliminary findings of the peer reviewers expected
- November 30, 2010 - Brampton Brick's Public Information Open House, as required by the ARA license application
- December 2010 – status report to Council on the planning and license applications
- Late Winter 2011 – Final reports from peer reviewers
- City of Brampton convene open house with local area residents
- Spring 2011 – status report to PDD on final results of Peer review and open house. Seek direction on next steps/continue to statutory public meeting before the end of June 2011
- Fall 2011 - recommendation report on the planning application

November 2010

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