

## **COMMITTEE OF THE WHOLE – SEPTEMBER 19, 2005**

### **ZONING BY-LAW AMENDMENT FILE Z.05.008**

### **CANADIAN PACIFIC RAILWAY**

### **REPORT #P.2005.19**

(Referred from the Council Meeting of September 12, 2005)

Council, at its meeting of September 12, 2005, adopted the following:

That this matter be referred to the Committee of the Whole meeting of September 19, 2005 for further consultation with staff and the applicant to address the access, egress, and property standards issues;

That the memorandum from the Commissioner of Planning, dated September 12, 2005, be received; and

That the written submission from Ms. Michelle T. Banfield, Larkin & Associates Planning Consultants Inc., 1168 Kingdale Road, Newmarket, L3Y 4W1, dated September 7, 2005, be received.

Recommendation of the Committee of the Whole meeting of September 6, 2005:

The Committee of the Whole recommends that this matter be referred to the Council meeting of September 12, 2005.

### **Report of the Commissioner of Planning dated September 6, 2005**

#### **Recommendation**

The Commissioner of Planning recommends:

THAT Zoning By-law Amendment File Z.05.008 (Canadian Pacific Railway) BE APPROVED, and that the implementing by-law amend the M3 Transportation Industrial Zone to allow the continued use of the subject lands shown on Attachment #1 only for a driveway access to the existing westerly fuel operation business located at 852 Nashville Road (Maw's Fuels Ltd.) with the following site-specific exception to permit a maximum driveway access and aisle width of 24.91m.

#### **Economic Impact**

There are no requirements for new funding associated with this report. The proposed development will add new assessment to the local tax base.

#### **Purpose**

The Owner originally submitted a Zoning By-law Amendment Application to rezone surplus Canadian Pacific Railway lands shown on Attachment #2 from M3 Transportation Industrial Zone to M2 General Industrial Zone with a site-specific zoning exception to facilitate the continued use of the subject lands for a driveway access to the existing westerly fuel operation business located at 852 Nashville Road (Maw's Fuels Ltd.).

Since the Public Hearing held on April 18, 2005, the applicant has amended the proposal to maintain the M3 zoning on the surplus CN property, with a site-specific exception to facilitate the continued use of the lands for a driveway access to the Maw's Fuels property.

## **Background - Analysis and Options**

The 0.318 ha subject lands shown on Attachment #1 are located on the north side of Nashville Road, east of Huntington Road, in Part of Lot 26, Concession 9, City of Vaughan. The subject lands have frontage of 24.91 m on Nashville Road and a lot depth of 165 m.

The subject lands are identified as "Canadian Pacific Railway" by OPA #601 (Kleinburg-Nashville Community Plan) as shown on Attachment #3, and zoned M3 Transportation Industrial Zone by By-law 1-88, as shown on Attachment #4. The subject lands are currently developed with a 3-storey grain elevator (not operational) as shown on Attachment #2. The surrounding land uses are:

- North - Canadian Pacific Railway (M3 Transportation Industrial Zone)
- South - industrial lands (M2 General Industrial Zone); Nashville Road, Canadian Pacific Railway (M3 Transportation Industrial Zone)
- West - industrial lands (M2 General Industrial Zone); agricultural lands (A Agricultural Zone)
- East - Canadian Pacific Railway (M3 Transportation Industrial Zone)

## **Public Hearing**

On March 24, 2005, a Notice of Public Hearing was mailed to all property owners within 120 metres of the subject lands and to the Kleinburg and Area Ratepayers' Association. At the April 18, 2005 Public Hearing, the adjacent property owner at 830 Nashville Road (A & F Di Carlo Construction Ltd.), advised that he is opposed to the proposal as he stores approximately 20 vehicles on his site and is concerned about the fuel operation business. As discussed later in this report, the owner of 830 Nashville Road is now satisfied with the proposed use of the subject lands.

The recommendation of the Committee of the Whole to receive the Public Hearing report on April 18, 2005, and to forward a comprehensive report to a future Committee of the Whole meeting was ratified by Council on April 25, 2005.

## **Official Plan**

The subject lands are shown as "CPR" lands by OPA #601 (Kleinburg-Nashville Community Plan) as shown on Attachment #3. The lands west of the subject railway lands including the Maw's Fuels Ltd. lands are designated "Nashville Core Area" and "Suburban Residential" by OPA #601 which permits a range of commercial and residential uses, and is part of the Kleinburg-Nashville Heritage Conservation District.

The proposed addition of the subject railway lands with the Maw's Fuels Ltd. lands located at 852 Nashville Road results in the expansion of a non-conforming use. The Official Plan designation of "Nashville Core Area" and "Suburban Residential" is intended to provide future commercial and residential uses on the Maw's Fuels lands and not to extend non-conforming uses such as industrial uses. However, the Official Plan also includes provisions to allow for the extension or enlargement of a non-conforming use where; the land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed; and that the extension or enlargement of a non-conforming use will not adversely affect the welfare of the community in which it is located.

Maw's Fuels has been located at 852 Nashville Road, as well as been in an agreement with Canadian Pacific Railway to use the subject railway lands as a driveway since the 1930's. Maw's Fuels currently leases and uses the subject railway lands as a driveway for the fuel trucks to exit from the Maw's Fuels lands. Canadian Pacific Railway intends to sell the subject surplus railway lands to Maw's Fuels, the adjacent property owner to the west at 852 Nashville Road. Maw's

Fuels intends to consolidate the subject surplus railway with the rest of its land at 852 Nashville Road. Therefore, a consent application is required for the consolidation of both parcels of lands under the Maw's Fuels ownership.

Currently, fuel delivery trucks and trailers for Maw's Fuels enter from the driveway at 852 Nashville Road and exit onto Nashville Road from the CPR lands. The irregular configuration of the site and the location of existing buildings and structures at 852 Nashville Road result in manoeuvring difficultly for fuel delivery trucks and trailers to turn around and exit from 852 Nashville Road. Therefore, the additional driveway on the subject railway lands allows for fuel vehicles to exit the Maw's Fuels lands without turning around. Maw's Fuels is a small family business, which primarily operates its business from Monday to Friday between the hours of 8:00 a.m. to 5:00 p.m. The refuelling trucks/trailers deliver fuel to the oil tanks on the Maw's site every two to three days, and approximately two delivery trucks make two trips each per day to the Maw's site to obtain fuel to deliver off-site.

The subject surplus rail lands contain an abandoned 3-storey grain elevator at the north end of the site and a remnant building foundation at the south end of the site. The owner of Maw's Fuels intends to remove the building foundation, and the grain elevator will be kept in its present location, in a non-operational state. No fuel related business and no new buildings or structures are proposed for the subject railway lands. The subject railway lands along with the Maw's Fuels lands are relatively clean and well maintained. The existing house on the Maw's Fuels lands, which is on land that is zoned A Agricultural Zone is fenced off from the fuel operation business except for the driveway along the west side of the 852 Nashville Road lands as shown on Attachment #2.

The lands to the west and south of the subject railway lands are industrial uses. The lands to the west and south of the Maw's Fuels lands at 852 Nashville Road are residential uses with the lands at 864 Nashville Road, which are adjacent to the west side of the Maw's Fuels lands, under the ownership of the Maw Family. To the east of the subject railway lands and east of the railway track is an existing residential subdivision where the rooftops of the dwelling units are visible from the subject lands. The adjacent property owner for the lands at 830 Nashville Road advised that he was concerned about the fuel operation business, but as the site is well maintained, there appears to be no concern with this use in the area, together with the other industrial uses and a railway.

The proposal is to facilitate the continued use of the subject railway lands for a driveway access to the existing Maw's Fuels business located at 852 Nashville Road, which results in the extension or enlargement of a non-conforming use. The use of the surplus railway lands has been used for a driveway access since the 1930's. Also, no new buildings or structures are being proposed on the subject lands. Furthermore, the consolidation of the surplus railway lands with the Maw's Fuels lands does not adversely affect the amenity of the surrounding area. For these reasons, the proposal is in keeping with the non-conforming use policies in the Official Plan.

### Zoning

The original application proposed to rezone the subject railway lands as shown on Attachment #2 from M3 Transportation Industrial Zone to M2 General Industrial Zone which permits industrial uses and open storage. The Maw's Fuel lands have a dual zoning with the lands at the north end of the site zoned M2 General Industrial Zone for the fuel operation business and the lands at the south end zoned A Agricultural Zone for the residential use as shown on Attachment #4. The Official Plan requires that the extension or enlargement of a non-conforming use is to comply with the policies of the Official Plan for that type of use.

In order to comply with the Official Plan, the zoning will remain M3 Transportation Industrial Zone and an exception is to be made to the existing zoning to permit only the continued use of the subject surplus railway lands for a driveway access for the Maw's Fuels operation and that no

new buildings or structures shall be permitted. The existing grain elevator will not be utilized as part of the operation and is legal non-conforming with respect to its sideyard setback. A zoning exception will not be provided in this respect. Exceptions to the M3 Transportation Industrial Zone standards are necessary to recognize the existing state of the driveway on the subject surplus railway lands as follows:

<u>Zone Requirements</u>	<u>Required</u>	<u>Provided</u>
Minimum and Maximum Driveway Aisle Width (on the property)	6 m to 13.5 m	24.91 m (max)
Minimum and Maximum Driveway Width (along Nashville Road)	5.4 m to 7.5 m	24.91 m (max)

The proposed exceptions to the permitted uses and requirements for the M3 Transportation Industrial Zone are to facilitate the continued use of the subject railway lands for a driveway access to the existing Maw's Fuels business. The subject railway lands deficiencies to the By-law requirements are being addressed as required by the Official Plan. The Planning Department has reviewed the proposal in accordance with the policies of the Official Plan concerning an extension or enlargement of a non-conforming use and can support the proposal as the land continues to be used in the same manner for a driveway access to the existing Maw's Fuels operation located at 852 Nashville Road.

#### **Relationship to Vaughan Vision 2007**

This staff report is consistent with the priorities set forth in Vaughan Vision 2007, particularly 'A-5', "Plan and Manage Growth".

#### **Conclusion**

The proposed application to amend the Zoning By-law has been reviewed in accordance with the applicable policies of the Official Plan concerning an extension or enlargement of a non-conforming use in order to amend the M3 Transportation Industrial Zone to allow the continued use of the subject surplus CP Rail lands for a driveway access to the existing westerly fuel operation business located at 852 Nashville Road (Maw's Fuels Ltd.) together with site-specific exceptions. The proposal conforms to the policies of OPA #601 with respect to the extension or enlargement of non-conforming uses, there are no new buildings proposed, and the proposal does not adversely affect the amenity of the surrounding area. For these reasons, the Planning Department recommends approval of the proposed amendment to the Zoning By-law.

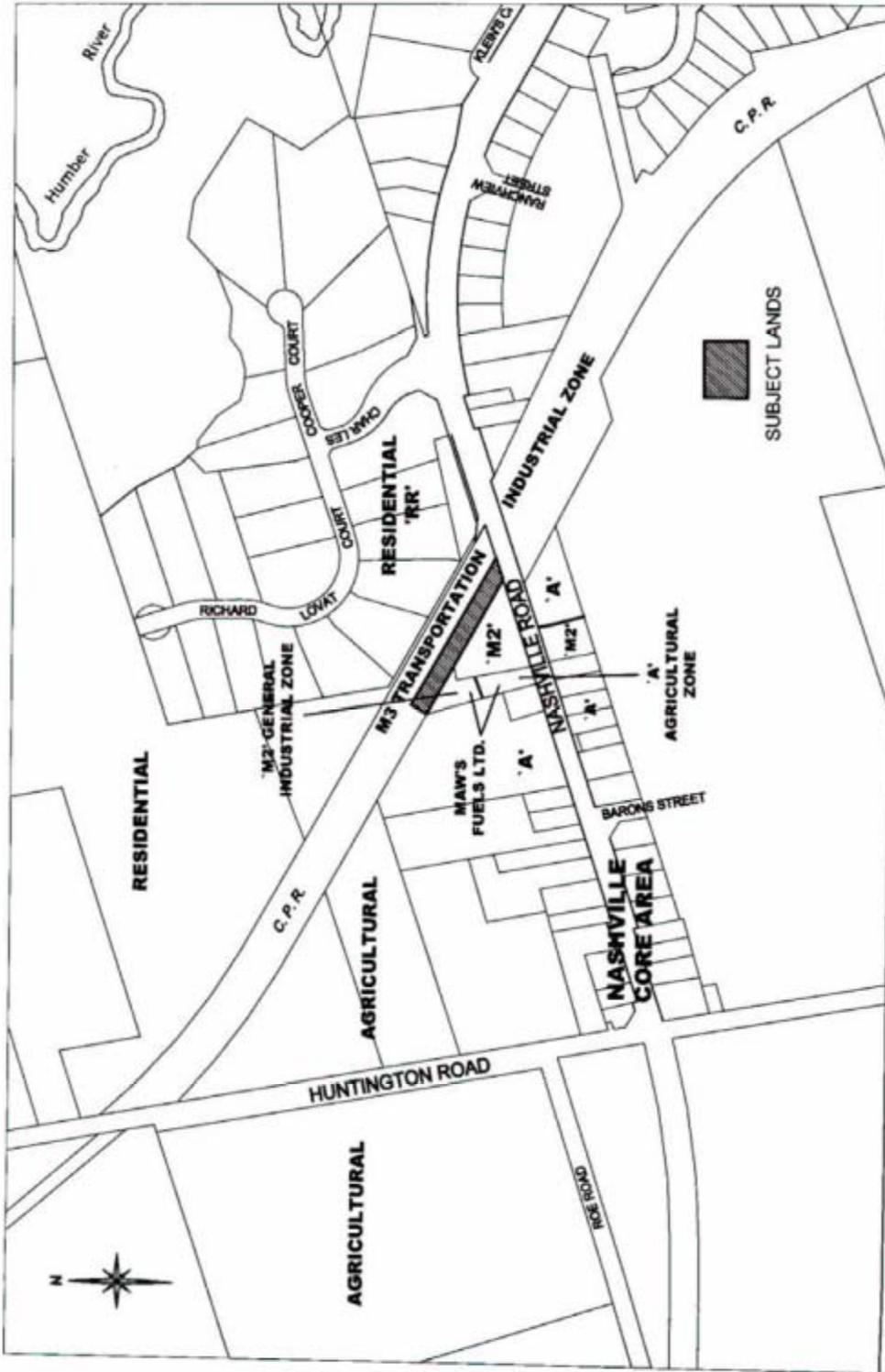
#### **Attachments**

1. Location Map
2. Site Plan
3. Kleinburg-Nashville Community Plan (OPA #601) – Land Use Schedule
4. Existing Zoning

#### **Report prepared by:**

Judy Jeffers, Planner, ext. 8645  
Mauro Peverini, Senior Planner, ext. 8407  
Grant Uyeyama, Manager of Development Planning, ext. 8635

/CM



**Location Map**

Part of Lot 26,  
Concession 9  
APPLICANT:  
CANADIAN PACIFIC RAILWAY  
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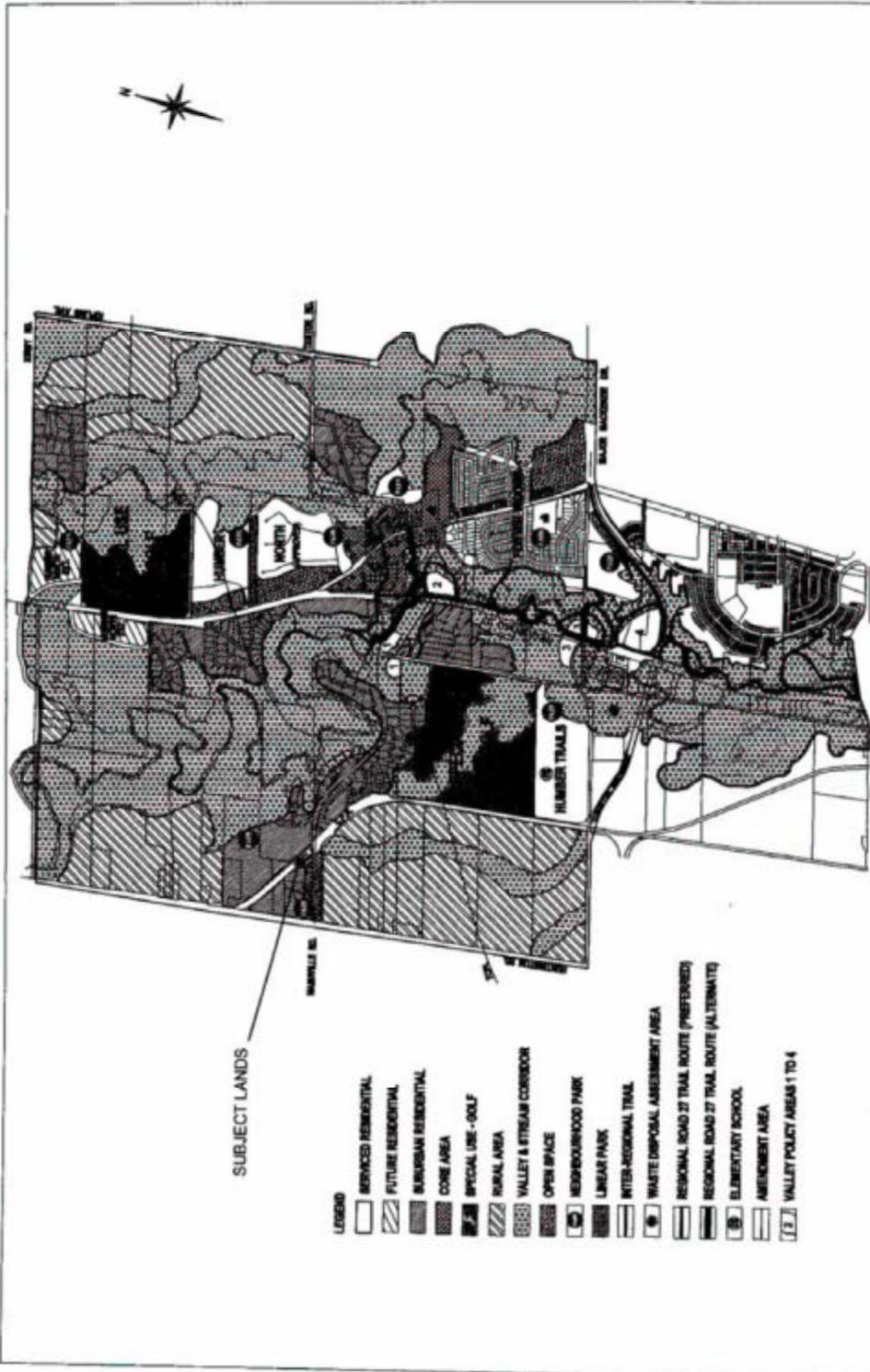
Development Planning Department

**Attachment**

**1**

FILE No.:  
Z.05.008  
Not to Scale  
August 16, 2005





**Kleinburg / Nashville Community Plan  
(OPA #601) - Land Use Schedule**

APPLICANT:  
CANADIAN PACIFIC  
RAILWAY

Part of Lot 26  
Concession 9  
(North Side of Nashville Road,  
East of Huntington Road)

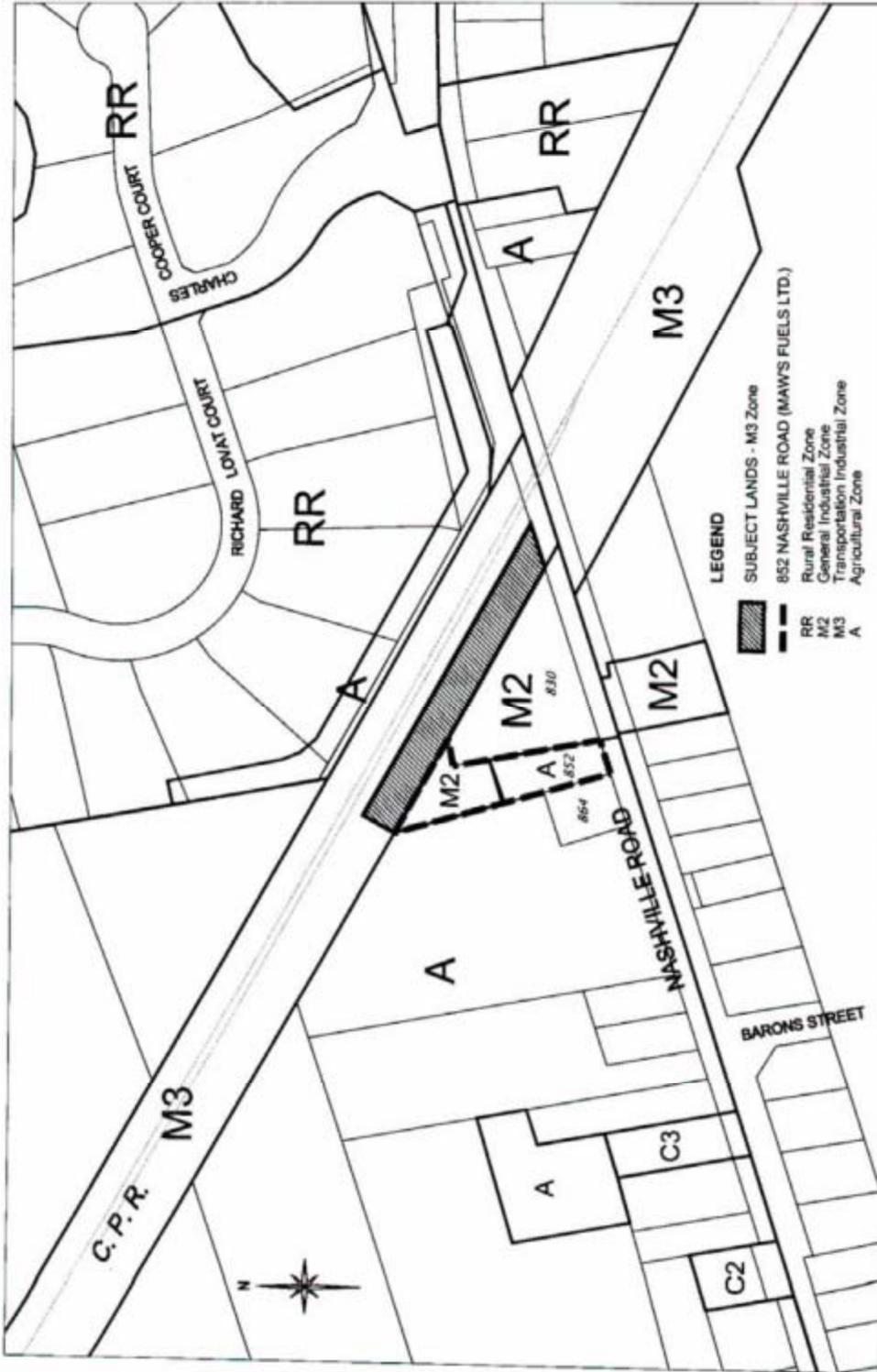


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**Attachment 3**

FILE NO.:  
Z-05.008

Not to Scale  
August 9, 2005



**Existing Zoning**

Part of Lot 26,  
Concession 9  
APPLICANT:  
CANADIAN PACIFIC RAILWAY  
NUPA1 - ATTACHMENT 1, 1.03.008



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**Attachment**

FILE NO.:  
Z.05.008  
Not to Scale  
August 16, 2005

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