

**DATE:** February 2, 2016

**REPORT NO. CD2016-050**

**TO:** Mayor Friel  
Members of City Council

**FROM:** Gregory Dworak, General Manager, Community Services

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**1.0 TYPE OF REPORT**

**CONSENT ITEM [ ]**  
**ITEM FOR CONSIDERATION [X]**

**2.0 TOPIC**

**Municipal Boundary Adjustment – Response to Public Comments  
[Financial Impact – None] (CD2016-050)**

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**3.0 RECOMMENDATION**

- A. THAT Staff Report CD2016-050 regarding the response to public comments for the proposed municipal boundary expansion BE RECEIVED for information and,
- B. THAT Staff BE DIRECTED to prepare the Boundary Adjustment Agreement based upon the signed Memorandum of Understanding, plus the following amendments resulting from the review of the public comments:
  - (a) Revisions to the Appendix “1” Map of the Memorandum of Understanding as shown in Appendix “A” and as detailed in Section 8.2 of Report CD2016-050; and,
- C. THAT upon completion of the Boundary Adjustment Agreement, it be brought to City Council for consideration.

**4.0 PURPOSE**

The purpose of this Report is to provide Council with an update on the review of the public comments received as a result of the Public Information Centres (PIC) that were held in January 2016 on the proposed municipal boundary adjustment.

## 5.0 BACKGROUND

In approving the Memorandum of Understanding (MOU) on January 5<sup>th</sup>, 2016, it was established that two (2) Public Consultation events, one hosted in each municipality, would be arranged. The dates of the Public Information Centres (PIC's) were Thursday, January 14<sup>th</sup> and 21<sup>st</sup>, 2016. Open Houses were held from 10 - 12 noon and 2 - 4 p.m. on each day, with a Staff presentation at 6 p.m. on both dates on the MOU/boundary expansion followed by a question and answer period.

Staff Report CD2016-041, dated January 26<sup>th</sup>, 2016 provided Council with a summary of the main themes of the comments submitted as a result of those PIC's and were given direction to review the results and provide a recommended solution to address the issues/comments that were raised. The total number of registered attendants for the two meetings was 595.

## 6.0 CORPORATE POLICY CONTEXT

The PIC's held for the Boundary Adjustment were carried out in accordance with the City's Public Consultation Program.

## 7.0 INPUT FROM OTHER SOURCES

Staff has prepared this Report in full consultation with Staff from the County of Brant involved with the ongoing boundary discussions and has reviewed the public comments submitted as part of this process.

## 8.0 ANALYSIS

As noted above, Council adopted the following resolution on January 26<sup>th</sup>, 2016:

- A. *THAT Staff Report CD2016-041 regarding the summary of the public consultation process for the proposed municipal boundary expansion BE RECEIVED for information and,*
- B. *THAT staff BE DIRECTED to review the results of the public consultation and provide recommended solution to address the issues / comments that were raised during the public consultation process and present it to City Council for consideration.*

The City and County received approximately 170 submissions as a result of the two PIC's held in January 2016. As noted in Staff Report CD2016-041, the main themes of the comments are as follows:

- Opposition to the inclusion of Tutela Heights/Phelps Road in the MOU
- Do not want higher density development in Tutela Heights – maintain its character

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- Can Tutela Heights be included as Trigger Lands
  - Extend the decision timeline to June 2016
  - Inclusion of lands within the City's boundary adjustment that were included in 2013 (Paris Road/Powerline Road area and lands on the east side of Garden Avenue.)
  - Preservation of farmland
  - Increased traffic
  - Preservation of environmental lands and woodlots
  - Implementation of the Crombie Report
  - Too much land is being transferred
  - Consultation with Six Nations
  - Increased taxes with no City services immediately available
  - Continued use of agricultural lands for farming and related operations
  - Support for the City and County's signing of the MOU

## 8.1 STAFF'S REVIEW OF THE COMMENTS

### 1. Tutela Heights

The majority of the comments received and presentations made at the PIC's related to Tutela Heights being included in the Memorandum of Understanding signed by the City and County on January 6<sup>th</sup>, 2016. The majority of the comments do not support the inclusion of Tutela Heights within the proposed boundary expansion. Further, concerns were raised around the amount of time the residents had to react to the inclusion of this area within the MOU, and concerns related to the impacts on the existing character of the area and a suggestion whether the lands could be part of the Trigger Area.

It is noted that of the total gross area of 446 hectares encompassing Tutela Heights proposed to be brought into the City's municipal boundary through the MOU, approximately 278 gross hectares (62%) is primarily designated "*Suburban Residential*" within a "*Secondary Urban Settlement Area Boundary*" within the County of Brant's Official Plan. This designation permits The County to implement low density residential development including singles detached dwellings, semi-detached dwellings, duplex/triplex/fourplex dwellings and converted dwellings containing two or more dwelling units. Future residential development, in accordance with the County's Official Plan, is planned for this area. The city would also plan to develop this area consistent with its current planning criteria.

This area is located immediately adjacent to the City's boundary in the southwest and existing municipal services abut the area to be transferred to the City. Tutela Heights makes a logical extension to the City's boundary because of its proximity to the services and existing residential development within the City.

Secondary Planning is required as the next step in the boundary expansion and at such time Tutela Heights will be studied to develop site specific policies which will protect the character of the existing built form. Further, the Secondary Plan could introduce minimum development policy standards for future development to ensure that any new development is compatible and complimentary to the existing built form. Public Consultation will be included in the development of a Secondary Plan.

County Council passed a resolution on January 26<sup>th</sup>, 2016 recommending that the southern portion of the Tutela Heights area, those lands outside of the Settlement Area, be brought into the Trigger Lands. The Tutela Heights area would be triggered with the northern residential trigger lands at such time as 80% of the initial residential lands have been built. Triggering this area of Tutela Heights will phase in lands for future residential development that can be planned appropriately through the Secondary Planning exercise and will include public consultation with local residents.

## **2. Extend the Decision Timeline to June 2016**

The timeline to complete this process is for the Final Boundary Adjustment Agreement to be presented to both Municipal Councils on February 9<sup>th</sup>, 2016. After the agreement is approved by both Councils, it is then required to be submitted to the Minister of Municipal Affairs and Housing for final approval by the Minister.

With a requested implementation date of January 1, 2017, time is off the essence to keep this process on track to meet the implementation date.

## **3. Inclusion of lands within the City's boundary adjustment that were included in 2013 (Paris Road/Powerline Road area and lands on the east side of Garden Avenue.)**

Specific requests were received for the above-noted lands to be included within the City's boundary as part of this process. Both parcels noted were included in the 2013 Letter of Intent. Both of these parcels of land are contiguous to the current City boundary and can contribute positively to meeting the City's Growth Targets. Further, County Council, at its meeting on January 26<sup>th</sup>, 2016 recommended approval of adding these lands into the City's boundary.

## **4. Preservation of Farmland**

The Provincial Policy Statement (PPS) requires that prime agricultural areas be protected for the long-term use of agriculture. Prime agricultural areas defined in the PPS as *specialty crop areas and/or Canada Land Inventory 1*,

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*2 and 3 soils.* Specialty crop areas are given the highest priority for protection followed by Classes 1, 2 and 3 lands, and any Class 4 through 7 lands, in this order of priority.

A specialty crop area is defined by the PPS as an area designated using evaluation procedures established by the Province, where specialty crops such as tender fruits (peaches, cherries, plums), grapes, other fruit crops, vegetable crops, greenhouse crops, and crops from agriculturally developed organic soil lands are predominantly grown.

It is noted that the majority of the lands north of the Powerline Road are within Class 2-4 with only minor areas being Class 1. The Area of Tutela Heights is Class 3 and 4 lands. Staff is unaware of any Specialty Crop Areas in either of these two areas. However, they are required to be studied as part of the Secondary Planning process. Should any Specialty Crop Areas be identified, they must be protected under the PPS.

Policy 2.3.5.1 of the PPS does allow planning authorities to exclude land from prime agricultural areas for expansion of settlement areas only at the time of a Comprehensive Review in accordance with Policy 1.1.3.8 of the PPS. Policy 1.1.3.8(c) allows for the expansion of settlement area boundaries in prime agricultural areas, provided that:

1. The lands do not compromise specialty crop areas; and,
2. Alternative locations have been evaluated which avoid prime agricultural areas

The Growth Management Study (2006)(GMS) completed this assessment for all seven potential growth areas completed within that study. The GMS recommended that the preferred growth area (first out of seven areas) is Area #1; to the north of the City boundary (as identified in the MOU) as this area was the least constrained area. Further, the area to the south (Area # 3 - Tutela Heights) ranked third out of seven, and the Hopewell area (Area # 2) ranked second out of seven. All of these areas are appropriately located adjacent to existing development and municipal services and make a natural extension to the existing urban structure of the City.

The City is required to complete a Municipal Comprehensive Review to justify the Urban Settlement Boundary expansion in accordance with Provincial Policy and that will be completed as part of the Secondary Planning process for this Boundary Adjustment, which will include public consultation.

## **5. Increased Traffic**

Part of the Secondary Planning process for the transfer lands will include the update to the City's Transportation Master Plan. Through the updating of the Master Plan and preparation of the Secondary Plan, a new network of roads

will be developed and implementation through future draft plans of subdivisions will require the submission of individual traffic studies to address traffic flows and volumes and impacts on the existing road network and neighbourhoods and recommend any mitigation measures.

## **6. Preservation of Environmental Lands/Woodlots**

All environmental lands that are currently designated in the County's Official Plan have had a minimum 30 metre buffer added to them and have been removed from the lands that would be considered "developable" as part of this process.

The City's environmental policies in its current Official Plan and in the proposed new Official Plan would ensure the protection of the natural heritage system. As part of the Secondary Planning process for the transfer lands, the current natural heritage system in the County's Official Plan will be updated and could include more lands to be protected. Attached as Appendix "C" to this Report is map showing the environmental lands with a 30 metre buffer within the transfer area.

## **7. Implementation of the Crombie Report**

In 2015, the Province initiated a coordinated review of the Growth Plan, Greenbelt Plan, Oak Ridge's Moraine Plan and the Niagara Escarpment Plan. An Advisory Panel was established, headed by David Crombie, to oversee all feedback on the review of the four documents. The Advisory Panel released its report, *Planning for Health, Prosperity and Growth* (The Crombie Report) in December 2015.

The Crombie Report contains a series of recommendations to the Province for their consideration in making their final recommendations for changes to the four Provincial Plans being reviewed. Until the Province makes its final recommendations, the plans continue to apply in their current approved state.

The transfer lands are subject to the Growth Plan policies and any changes that are made to the Growth Plan as a result of this review will be implemented by the City.

## **8. Too Much Land is Being Transferred**

The City completed a Land Budget to address the Province's Amendment #2 to the Growth Plan which increased the population and employment projections from 2031 to 2041. The Land Budget identified the need for 1500 net hectares of land to meet the projected growth.

The City's land budget was peer reviewed in 2014 by Paul Lowes of the Planning firm, Sorenson Gravely Lowes, who has been involved in many

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boundary expansion/land budget projects across the Province. The findings of that peer review concluded that the City's land budget was appropriate and agreed with the amount of land required to meet the 2041 growth targets.

## **9. Consultation with Six Nations**

Consultation with Six Nations has been ongoing throughout this process. Staff and elected officials from both the City and County have met with the Chief, Elected Band Council members and Staff on the boundary issue and will continue to do so as this process evolves.

## **10. Increased Taxes with no City Services Immediately Available**

As a component of the compensation packages, a tax fairness policy was developed to allow existing residents to slowly be brought up the City tax rate. This would occur over a 15 year timeframe. City services will not be available immediately, however they will be available to the transfer lands as development occurs and demand increases as the population increases in the transfer area.

## **11. Continued Use of Agricultural Lands for Farming and Related Operations**

All existing land uses in the transfer lands can continue to operate as they do prior to the transfer of land occurring. Existing land uses will only cease upon the land being developed. All landowners control when/if their land uses will cease to allow for development to proceed.

Should development occur around existing farm operations, the Provincial Policy Statement requires that the Provincial Minimum Distance Separation Requirements be applied to ensure adequate separation/protection between farm and non-farm activities.

## **12. Support for the City and County's Signing of the MOU**

Included in the submissions were letters of support of the MOU from landowners and business associations.

## **8.2 STAFF'S RECOMMENDED REVISIONS**

As a result of the comments received, changes to the Appendix "1" Map of the Memorandum of Understanding are being recommended as indicated on Appendix "A" to this Report.

Specifically, five areas of change are recommended as follows:

1. The lands in Tutela Heights, south of the current Secondary Urban Settlement Area Boundary, would be included in the residential Trigger and would be subject to the trigger mechanism outlined in the MOU.
2. Lands on the west side in the area of Powerline Road/Paris Road would be added to the employment lands. These lands were part of the previous signed Letter of Intent in 2013.
3. Lands on the east side of Garden Avenue, west of the rail line would be added to the Residential lands. These lands were part of the previous signed Letter of Intent in 2013.
4. The boundary between the Employment lands and residential lands north of Powerline road is to be shifted slightly west to align with property lines rather than splitting properties.
5. Phelps Road is to be included as a boundary road that will be included within the City's jurisdiction and maintenance for that portion located adjacent to the transfer lands.

As a result of the above noted recommended changes, the total area for transfer would be 2,595 Gross hectares (6,412 acres) and 1,615 Net hectares (3,990 Acres). An overall revised map showing the Boundary Adjustment is attached as Appendix "B" to this Report.

It is noted that Staff has discussed the above noted changes with County Staff, who are agreement with the recommended changes noted above. Recommendations 1 to 3 above are consistent with County Council's recommended changes as of January 26, 2016.

It is noted that other individual submissions were received regarding lands to be either removed or included within the proposed Boundary expansion. The first inquiry was for a property on the north side of Powerline Road, near Oneida Drive, to be removed from the proposed boundary. It is noted that these lands were never included in the Boundary adjustment proposal and will remain in the County.

A property at the southeast corner of Highway 403 and Garden Avenue was requested to be included within the boundary as Employment lands. It is noted that these lands are heavily constrained with environmental features, woodlots, valley lands, creeks etc. and very little developable land remains.

A third request was to include lands east of Johnson Road out to Jerseyville Road. These lands are also heavily constrained with environmental features and very little development opportunity exists.

Finally, it is noted that the Brantford-Brant Annexation Act (BBAA), 1980, contained a description of land surrounding the City, known as Schedule "C". Schedule "C" was repealed in January 2003 with the BBAA. However, the text of the Municipal Act (Section 474.2) states the previous provisions continue to apply as if Schedule "C" still existed. Specifically, Sections 474.12 (1) and (2) of the

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Municipal Act are still in effect with this proposed Boundary Adjustment and any land use change within the described lands of the former Schedule “C”, (now designated Agricultural in the County’s Official Plan) require agreement between the City and County.

### 8.3 ANTICIPATED COSTS

At the Council Meeting of January 26<sup>th</sup>, 2016, there were questions asked of Staff regarding future costs associated with roads maintenance and slope stabilization in Tutela Heights and tax revenues. The following annual costs have been estimated by Public Works staff:

- Road Maintenance and Operation: \$411,457
- Winter Control: \$184,266
- Stormwater Management: \$106,911
- Solid Waste: \$75,300
- Water Distribution: \$35,181
- Total: \$834,373
  
- 2015 Tax Revenues: \$1.7M

The County is currently completing an Environmental Assessment (EA) for the slope stabilization in Tutela Heights and the cost of that study is \$153,000. The EA will determine cost estimates to stabilize the slope and the City would pay their share for the works on any lands located within the City.

### 9.0 FINANCIAL IMPLICATIONS

There are no financial implications to the City associated with this Report.

### 10.0 CONCLUSION

Two (2) public consultation events were held in January, 2016 to receive comments from the residents of the City of Brantford and the County of Brant on the proposed municipal boundary adjustment. Comments both in support and not in support to the proposed boundary adjustment and/or Memorandum of Understanding were received during this process. All comments have been reviewed and minor changes to Boundary Adjustment are recommended to address the feedback received.

In terms of next steps, it is intended that the final Boundary Adjustment Agreement would be brought forward to Council on February 9<sup>th</sup>, 2016 for execution and then it would be sent to the Ministry of Municipal Affairs and Housing for the Minister’s approval. Staff is working with County Staff to coordinate this timing.

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Paul Moore, MCIP, RPP  
Director of Planning  
Community Services

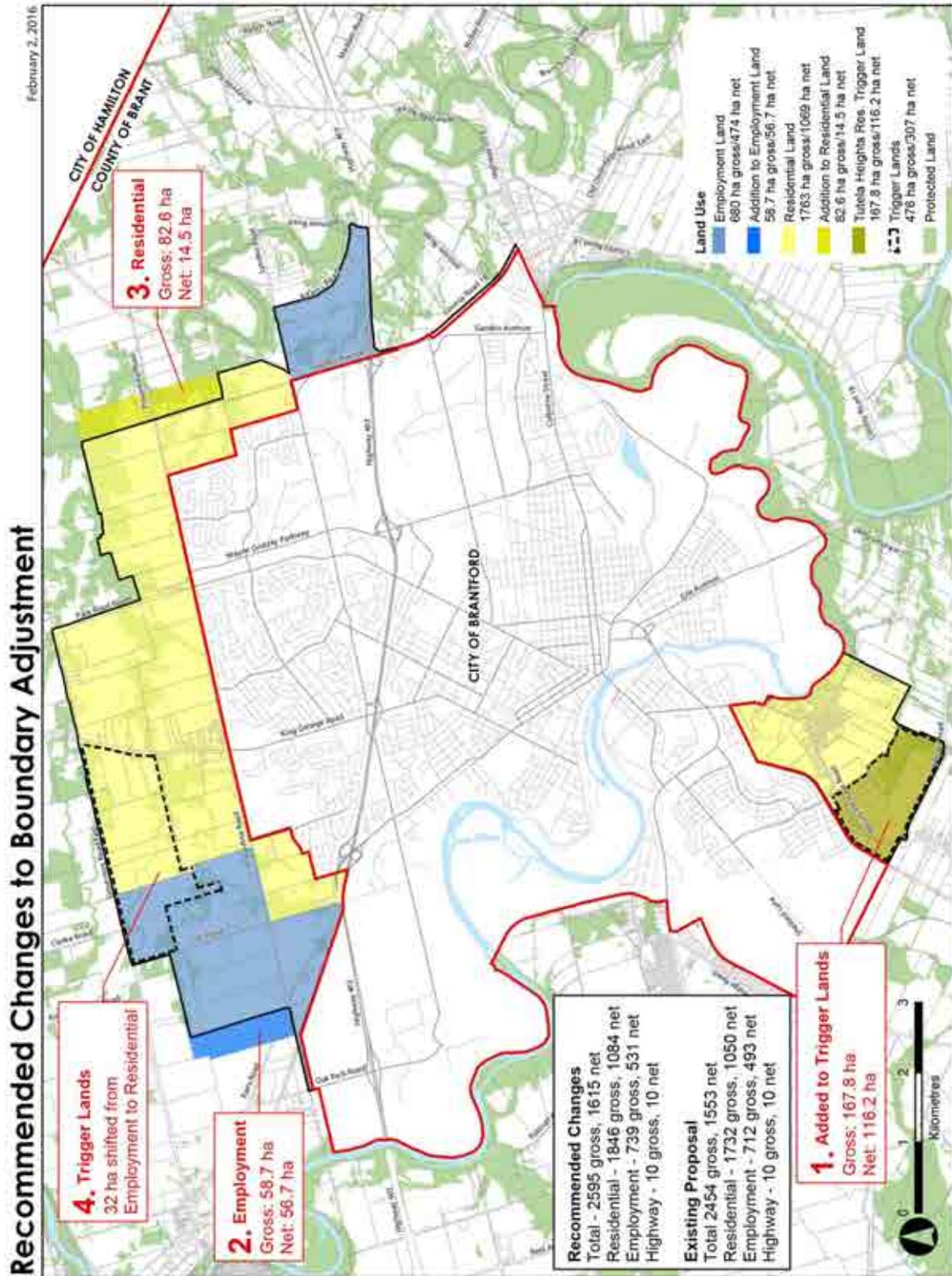
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Gregory Dworak, MCIP, RPP  
General Manager,  
Community Services

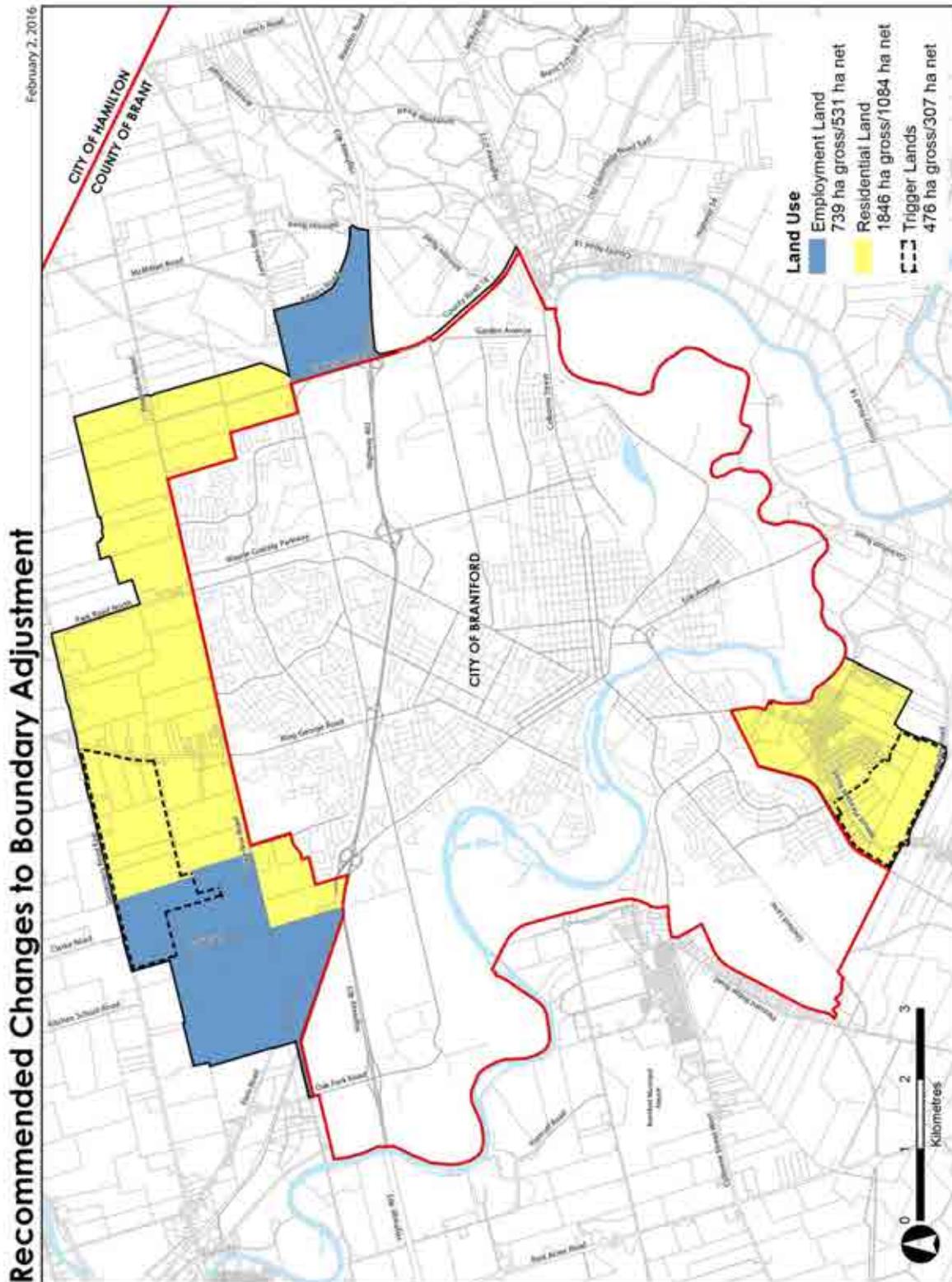
In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Agreement(s) or other documents to be signed by Mayor and/or City Clerk	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Is the necessary by-law or agreement being sent concurrently to Council?	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no

Appendix "A" to Report CD2016-050



Appendix "B" to Report CD2016-050



Appendix "C" to Report CD2016-050

