### C132 COMMUNICATION COUNCIL – October 20, 2021 CW (2)- Report No. 46, Item 9

From: <u>Clerks@vaughan.ca</u>
To: <u>Adelina Bellisario</u>

Subject: FW: CN - City of Vaughan Committee of the Whole October 13, 2021 - Comprehensive Zoning By-Law

Correspondence (127446-628)

**Date:** October-19-21 11:48:00 AM

Attachments: Letter to City Clerk City of Vaughan Comprehensive Zoning By Law October 20, 2021.pdf

From: Vergis-Mayo, Katryna <katy.vergismayo@dentons.com>

**Sent:** Tuesday, October 19, 2021 11:45 AM

To: Clerks@vaughan.ca

**Cc:** Bench, Mary Ellen <maryellen.bench@dentons.com>; Sliwa, Katarzyna <kat.sliwa@dentons.com>; Zink, Leighton <leighton.zink@dentons.com>

**Subject:** [External] CN - City of Vaughan Committee of the Whole October 13, 2021 - Comprehensive Zoning By-Law Correspondence (127446-628)

## Sent on behalf of Mary Ellen Bench

Good morning,

On behalf of our client, Canadian National Railway Company, please see the attached correspondence. Kindly ensure that the letter is provided to the Council members, in advance of their Wednesday, October 20<sup>th</sup>, 2021 meeting at 1:00 P.M.

Thank you,

Katryna Vergis-Mayo
Associate

My pronouns are: She/Her/Hers

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katy.vergismayo@dentons.com

Bio | Website

Dentons Canada LLP

77 King Street West, Suite 400, Toronto-Dominion Centre Toronto, ON M5K 0A1 Canada

Fernanda Lopes & Associados > Guevara & Gutierrez > Paz Horowitz Abogados > Sirote > Adepetun Caxton-Martins Agbor & Segun > Davis Brown > East African Law Chambers > Eric Silwamba, Jalasi and Linyama > Durham Jones & Pinegar > LEAD Advogados > Rattagan Macchiavello Arocena > Jiménez de Aréchaga, Viana & Brause > Lee International > Kensington Swan > Bingham Greenebaum > Cohen & Grigsby > Sayarh & Menjra > For more information on the firms that have come together to form Dentons, go to dentons.com/legacyfirms

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Mary Ellen Bench Counsel

maryellen.bench@dentons.com D +1 416 863 4724 Dentons Canada LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON, Canada M5K 0A1

File No.: 127446-628

dentons.com

October 19, 2021

Mr. Todd Coles City Clerk 2141 Major Mackenzie Drive Vaughan, Ontario L6A 1T1

Dear Mr. Coles:

Re: City of Vaughan Comprehensive Zoning By-law Review Canadian National Railway Company ("CN")

We are counsel for CN. I am writing further to our deputation and letter which was provided to the Committee of the Whole (2) members at the Wednesday, October 13<sup>th</sup>, 2021 meeting, included as communication C26. Please ensure that this letter is provided to the Council members in advance of their October 20, 2021 council meeting at 1:00 P.M.

CN continues to have outstanding concerns with the updated draft Comprehensive Zoning By-law dated September 2021, with respect to the proposed sensitive use type zoning designations in proximity to the MacMillan Yard. Sensitive uses should not be permitted within 300 metres of the MacMillan Yard, due to concerns relating to safety, noise and vibration.

The enclosed letter summarizes our continued concerns in further detail.

We look forward to working with staff and Council Members to further address CN's concerns regarding land use compatibility and the Comprehensive Zoning By-law review.

If you have any questions regarding the above, please do not hesitate to contact the undersigned.

Yours truly,

Dentons Canada LLP

—DocuSigned by:

Mary Ellen Bendi -50FD4EBF1970402...

Mary Ellen Bench

Counsel

Encl: Letter of Mary Ellen Bench dated May 12, 2021 to the City of Vaughan Committee of the Whole Schedule A: Mapping - CN Proposed Revisions to address Freight Rail (300 metre mark up)

Copy: Client

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Mary Ellen Bench Counsel

maryellen.bench@dentons.com +1 416 863 4724

Dentons Canada LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON, Canada M5K 0A1

File No.: 127446-628

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**COMMUNICATION C26** ITEM NO. 9 **COMMITTEE OF THE WHOLE (2)** October 13, 2021

October 12, 2021

Mr. Todd Coles City Clerk 2141 Major Mackenzie Drive Vaughan, Ontario L6A 1T1

Dear Mr. Coles:

Re: City of Vaughan Comprehensive Zoning By-law Review Canadian National Railway Company ("CN")

We are counsel for CN. I am writing further to our correspondence and call with Brandon Correia, Manager of Special Projects, Planning and Growth. Please ensure that this letter, is provided to the Committee of the Whole members, in advance of their Wednesday, October 13th, 2021 meeting at 1:00 P.M.

CN owns and operates the MacMillan Rail Yard (the "MacMillan Yard") in the City of Vaughan, as well as a network of rail lines throughout the City. CN reviewed the updated draft Comprehensive Zoning By-law dated September 2021. We thank Mr. Correia for his time and consideration of the concerns raised by CN. However, CN continues to have outstanding concerns regarding the range of land uses permitted in proximity to the MacMillan Yard. In particular, CN is concerned with the Employment Commercial Mixed-Use Zone ("EMU"), and other sensitive use type zoning designations near the MacMillan Yard along Highway 7. The EMU designation, among others, will permit the development of certain sensitive uses within close proximity to the MacMillan Yard.

As you may know, the MacMillan Yard is an industrial rail yard, operating 24 hours per day, seven days per week. It is a Class 3 Industrial Facility, as defined in the Ministry of the Environment, Conservation and Parks' D-Series Guidelines. Operations at the MacMillan Yard include, but are not limited to:

- Operation and idling of diesel locomotives and trucks;
- 24 hour per day artificial lighting;
- Loading, unloading, and switching of rail cars;
- Bulk transfer of cargo, including dangerous goods; and
- Various activities related to the maintenance and repair of rail and other equipment.

The nature of the operations at the MacMillan Yard, and their associated noise and other emissions, are wholly incompatible with sensitive uses. No sensitive uses should be permitted within 300 metres of the



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<u>MacMillan Yard</u>. Further, the coordination of land uses along railway corridors poses a unique set of challenges. The Federation of Canadian Municipalities and the Railways Association of Canada (FCM-RAC) Guidelines recommend that municipalities take a proactive approach to identifying potential land use conflicts. By addressing these issues in the zoning by-law stage, the City of Vaughan can mitigate conflict.

CN appreciates the work City staff have completed to date, to address concerns. The current version of the September 2021 draft Comprehensive Zoning By-Law incorporates some of CN's comments. Whereas CN recommended, based on a number of guidelines, that sensitive land uses be set back over 300m from the MacMillan Yard, the draft Zoning By-law only ensures that certain uses are not permitted to abut (i.e. be directly adjacent to) a freight rail facility (section 8.2.1). In some instances, this could lead to a setback of a sensitive use by as little as one lot, which can vary greatly in size. These provision could be meaningfully strengthened and standardized by establishing the setback at 300m or more.

In addition, the range of uses addressed by the draft Zoning By-law is not as comprehensive as CN's recommendations, which are informed by the D-6 Guidelines, and the FCM-RAC Guidelines. While section 8.2.1 of the draft by-law no longer permits a Funeral Service, Hotel, Place of Assembly, Apartment Dwelling, Independent Living Facility, Retirement Residence, Community Facility, Day Care Centre, Long-term Care Facility, Place of Worship or School to abut a freight rail facility in the LMU, MMU, HMU, GMU, CMU or EMU Zones, it does not address the following sensitive uses: A Clinic, Commercial School, Place of Entertainment, Cemetery, Outdoor Display Area, Seasonal Outdoor Display Area, Urban Square or Outdoor Patio. Notably, section 1.2.1 of the D-6 Guidelines identifies recreational uses and amenity spaces as potentially-sensitive uses. Finally, as noted above, section 8.2.1 only applies to the City of Vaughan's Mixed-Use (LMU, MMU, HMU, GMU, CMU and EMU) Zones. The restrictions should apply to Open Space (OS1 and OS2) Zones as well, as these Zones permit outdoor recreation, leisure and environmentally-sensitive uses, and pose a potential risk for land use conflict.

A strong regulatory framework within the Comprehensive Zoning By-law is necessary to ensure that the introduction of sensitive uses in proximity to the MacMillan Yard is not be permitted. The existing and future operations at the MacMillan Yard must be protected, and future land use conflicts must be avoided.

The following section summarizes CN's proposed revisions to the City of Vaughan draft Comprehensive Zoning By-Law. The comments highlighted in yellow are addressed in the most recent version of the draft by-law. The comments that are not highlighted have not yet been addressed.

### **Proposed Revisions**

### Part 1 – Uses Prohibited 4.27 Freight Rail Facilities

**4.27.1.** The following uses are strictly prohibited in the General Mixed Use (GMU), Community Commercial Mixed Use (CMU), Open Space (OS) and Employment Commercial Mixed Use (EMU) zones when within 300 meters of a <u>freight rail facility</u> property line unless otherwise expressly permitted by the By-law:

- 1. Clinic
- 2. Commercial School

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- 3. Funeral Services
- 4. Hotel
- 5. Hotel (small scale)
- 6. Day Care Centre
- 7. Community Facility
- 8. Place of Worship
- 9. Place of Assembly
- 10. Places of Entertainment
- 11. Cemetery
- 12. Outdoor Display Area
- 13. Seasonal Outdoor Display Area
- 14. Urban Square
- 15. Outdoor Patio

**4.27.2.** The following uses are strictly prohibited in the Prestige Employment (EM1) and General Employment (EM2) zones when within 300 meters of a <u>freight rail facility</u> property line unless otherwise expressly permitted by the By-law:

- 1. Day care centre
- 2. Commercial School

Suggested Information Box similar to other information boxes: 300 metre Freight Rail Facility setback from the property line is identified on Schedule A for information purposes.

Note: A standalone section was not added for Freight Rail Facilities, but rather the restrictions were incorporated into the table of permitted uses for Mixed-Use Zones.

#### Part 2 - Definition

**Freight Rail Facility:** Means a <u>premises</u> where operations of a railway take place, which may include switching and sorting of railcars; repair, fueling and maintenance of railway equipment; and an <u>intermodal facility</u>.

### Part 3 – Mapping

300 m around the freight rail yard from Jane Street (pullback track) to south of Highway 407. See shaded area on enclosed figures. Note proposed legend: "Freight Rail Facility 300 m Setback Overlay".

#### Part 4 (Solmar) - CMU 888

Section 14.888.1.2 - Add "e. Prohibitions listed in Section 4.27"

Section 14.888.2.9.a - Change to 50 m



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### Section 14.888.2.11 - Remove Hotel reference

As mentioned, the Comprehensive Zoning By-law review (Agenda Item 6.9) is returning to the Committee of the Whole on Wednesday, October 13<sup>th</sup>, 2021, after being referred from the June 22<sup>nd</sup>, 2021 Council Meeting. We look forward to working with staff and the Committee Members to further address CN's concerns regarding land use compatibility and the Comprehensive Zoning By-law review.

If you have any questions regarding the above, please do not hesitate to contact the undersigned.

Yours truly,

**Dentons Canada LLP** 

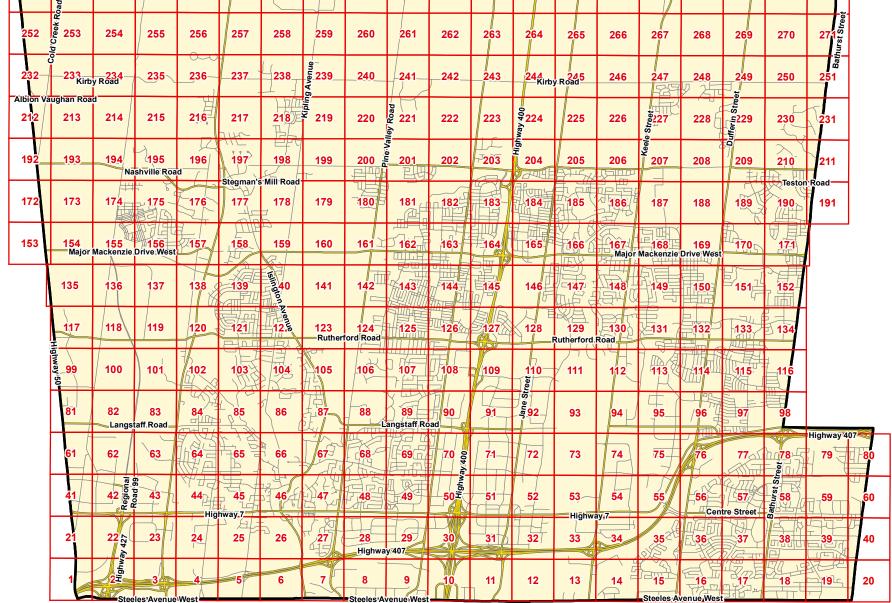
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Mary Ellen Bench 50FD4EBF1970402...

Mary Ellen Bench

Counsel

Encl: Schedule A: Mapping - CN Proposed Revisions to address Freight Rail (300 metre mark up)





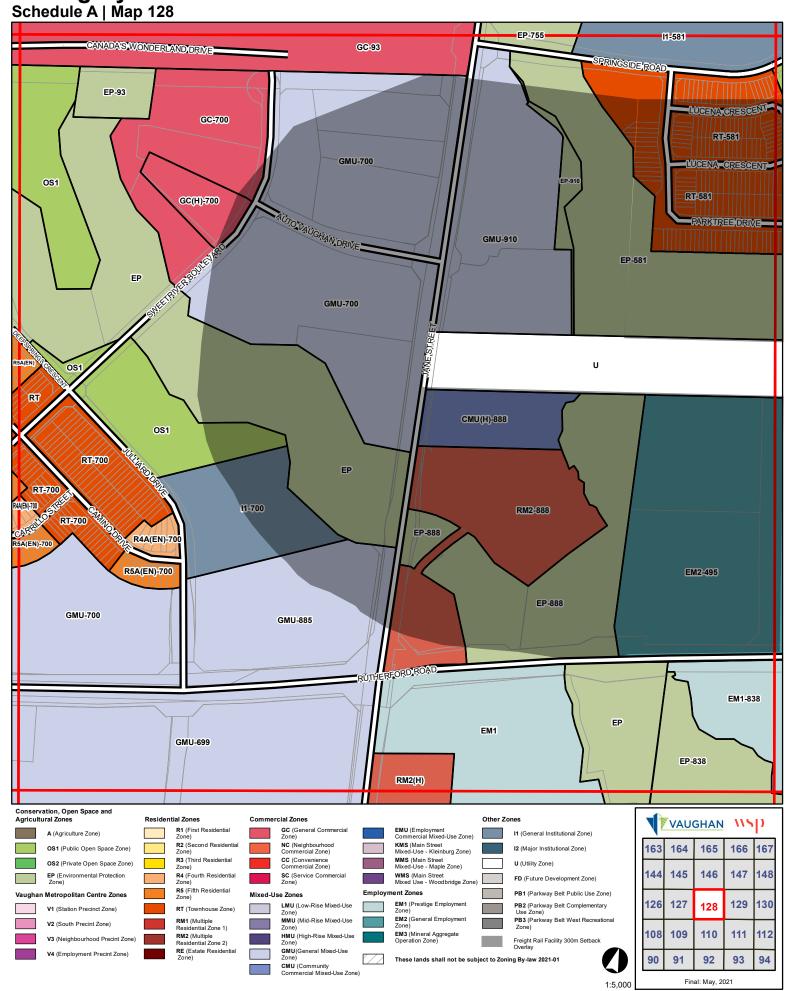
**Index Map** 

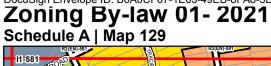
City of Vaughan Zoning By-law

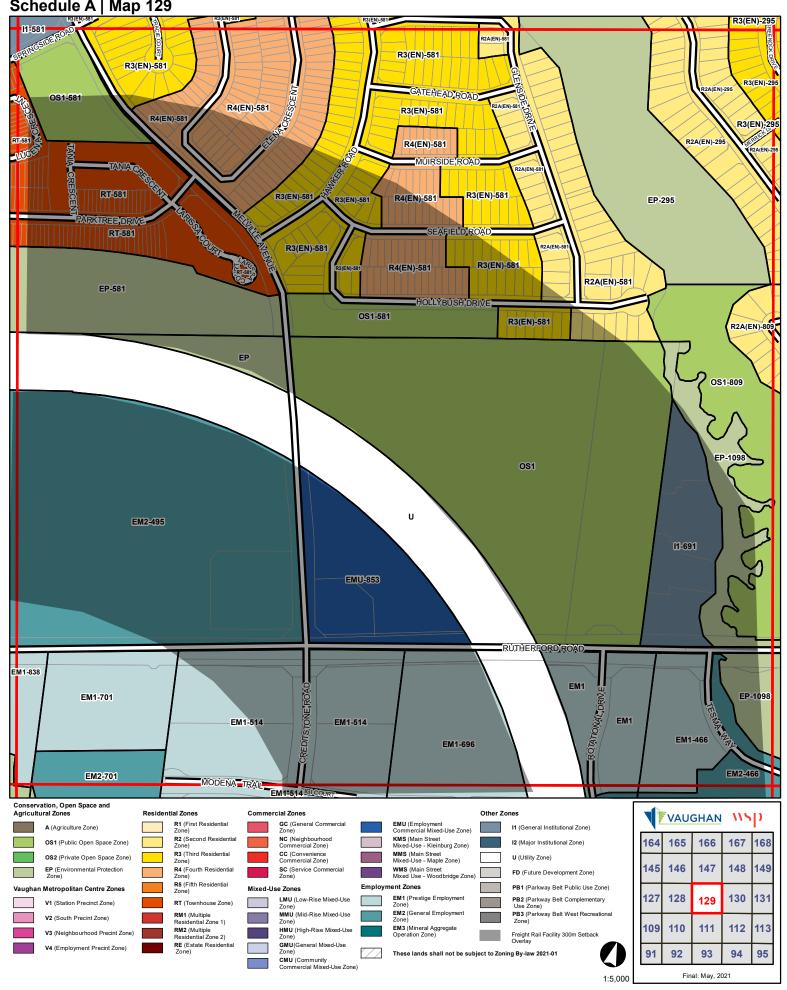
By-law No. 01-2021 | Final | May, 2021











RE (Estate Residential Zone)

V4 (Employment Precint Zone)

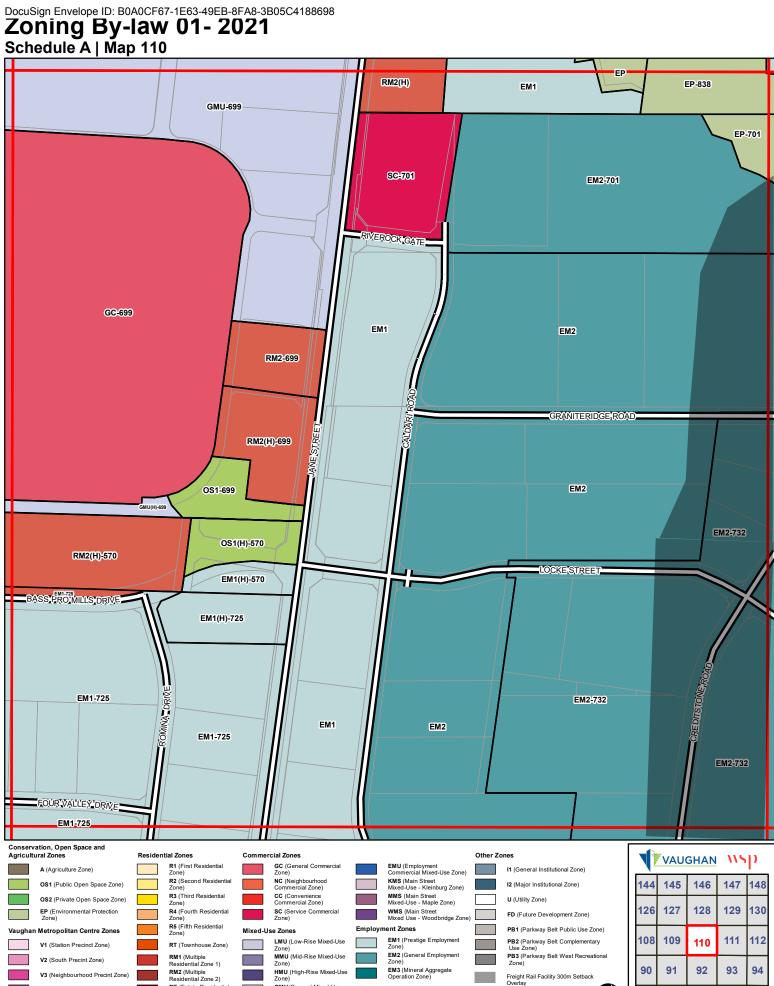
GMU (General Mixed-Use

These lands shall not be subject to Zoning By-law 2021-01

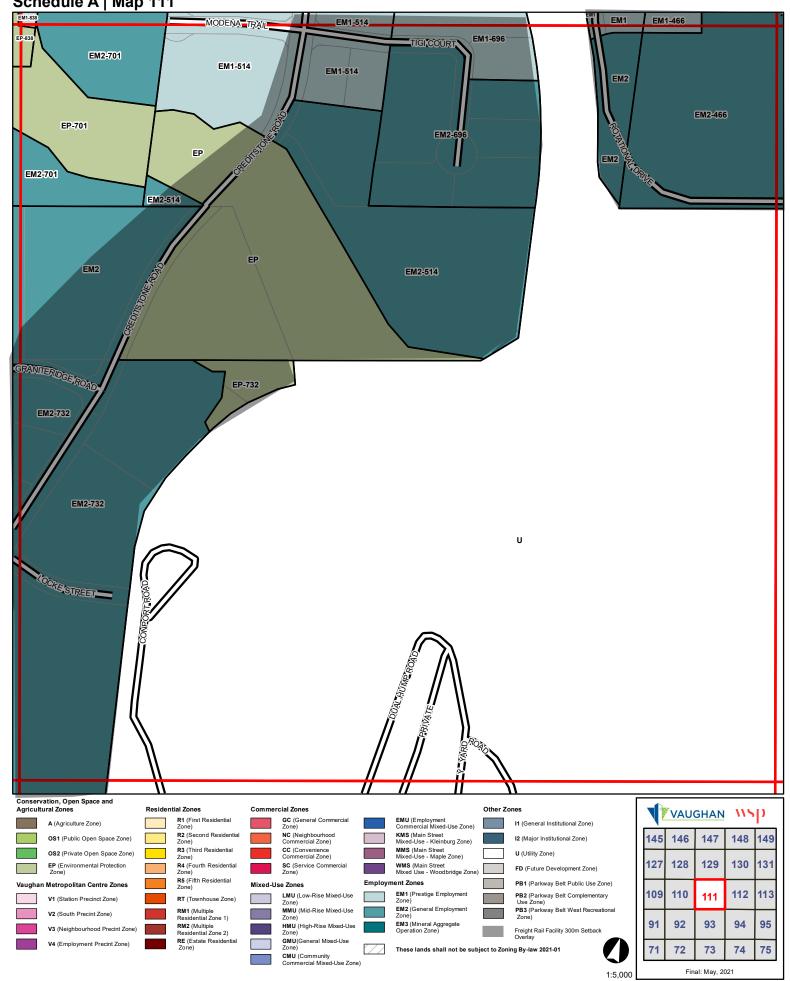
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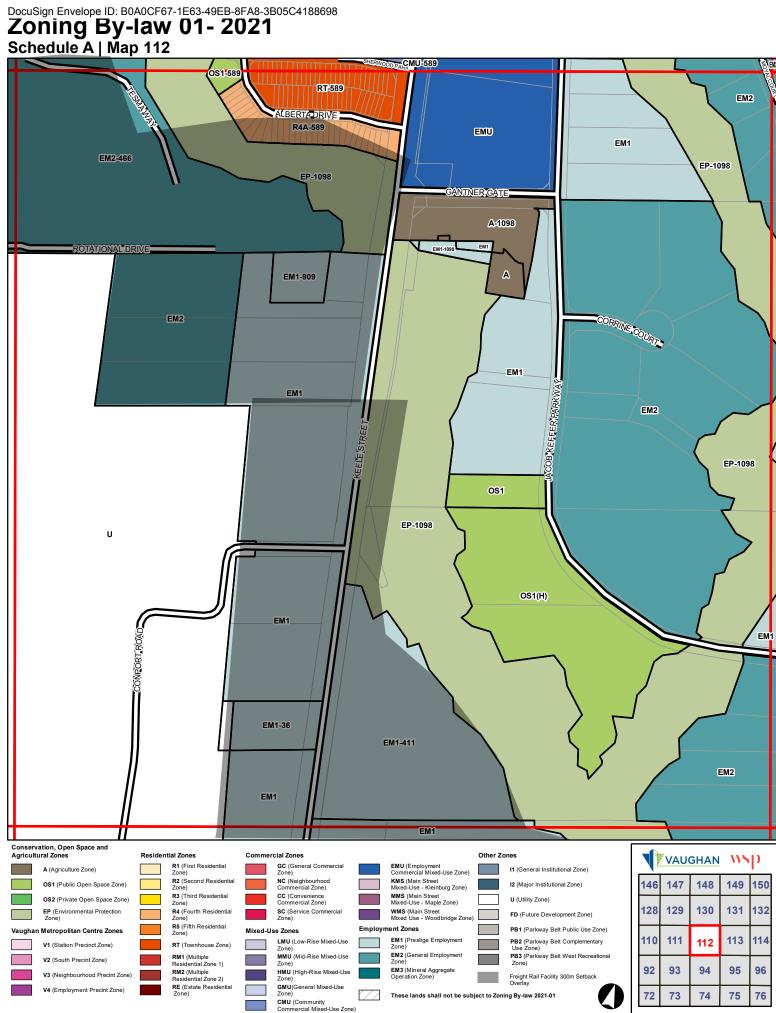
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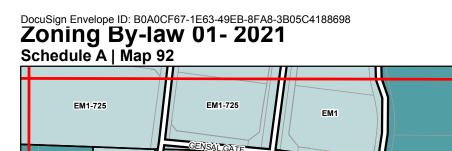


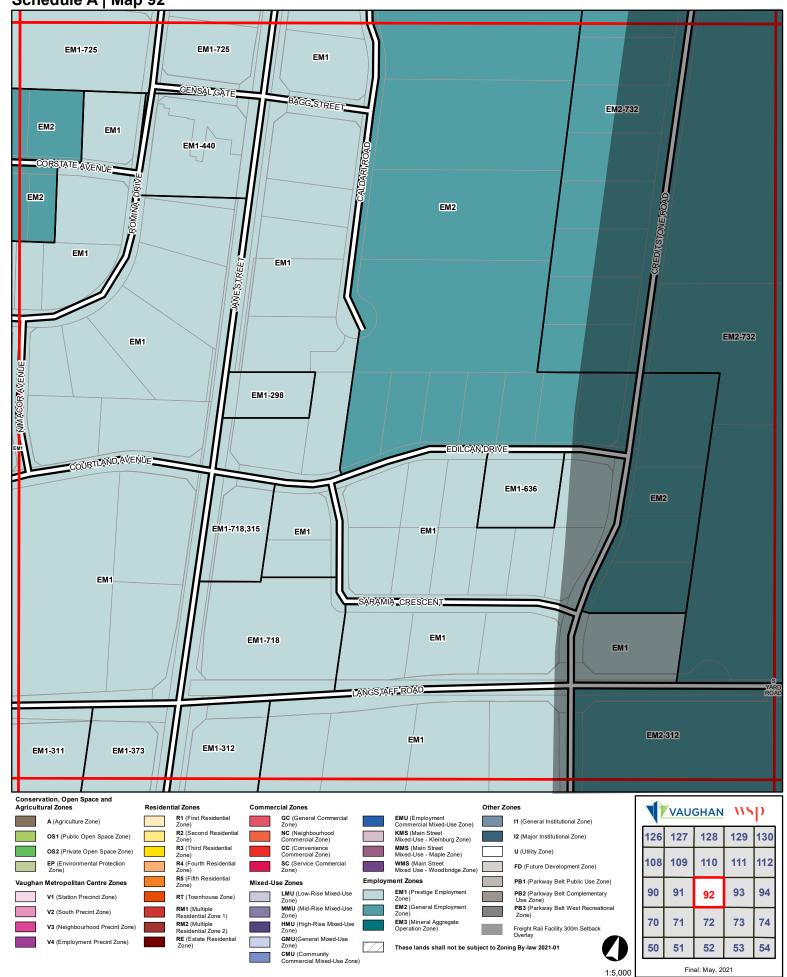




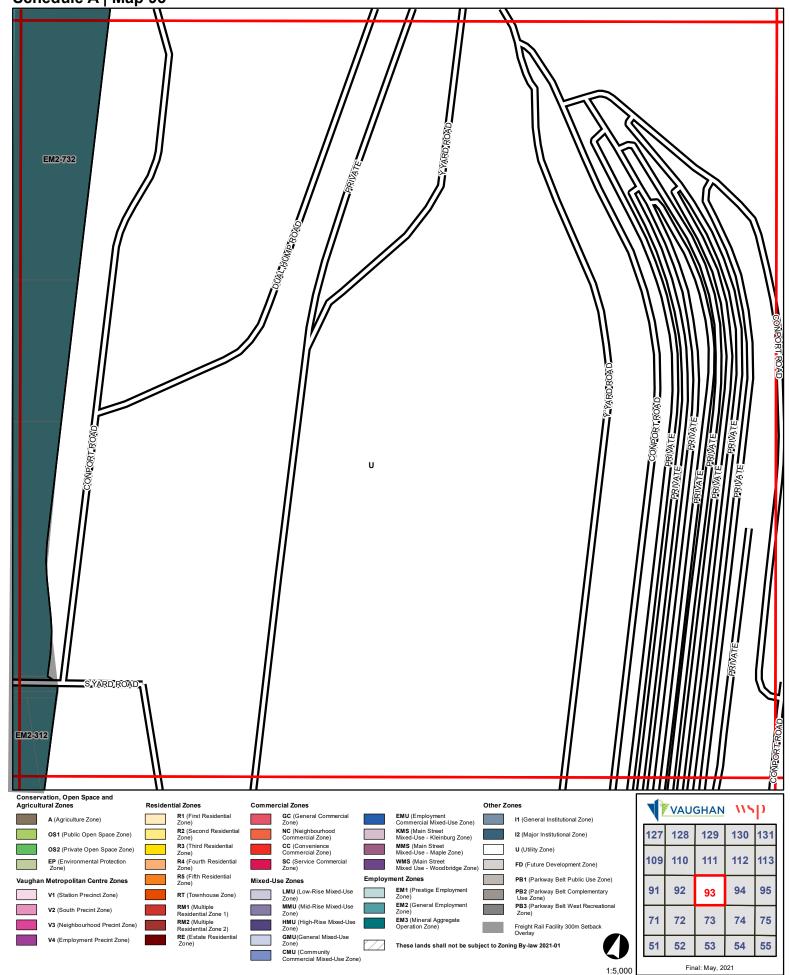


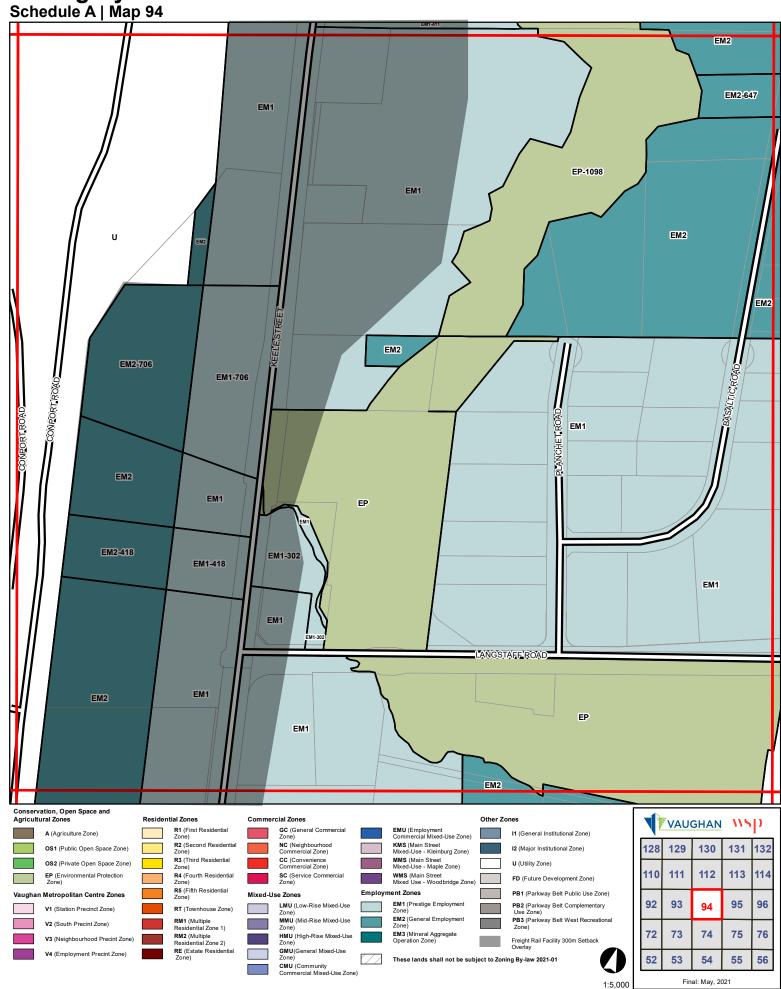
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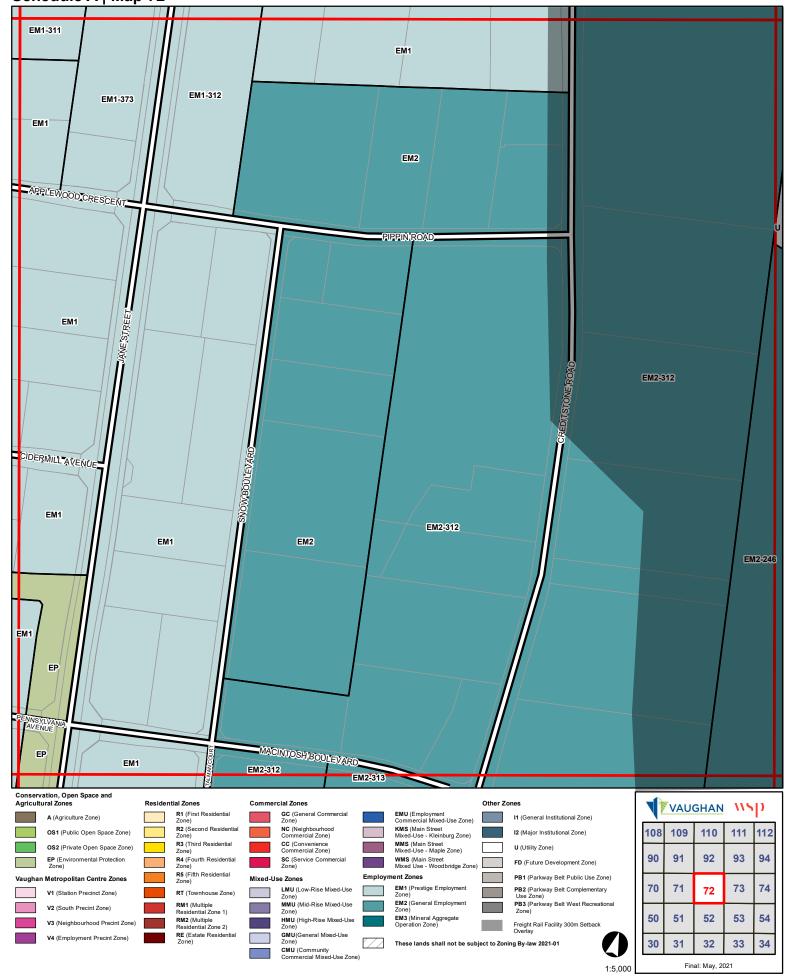


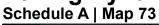


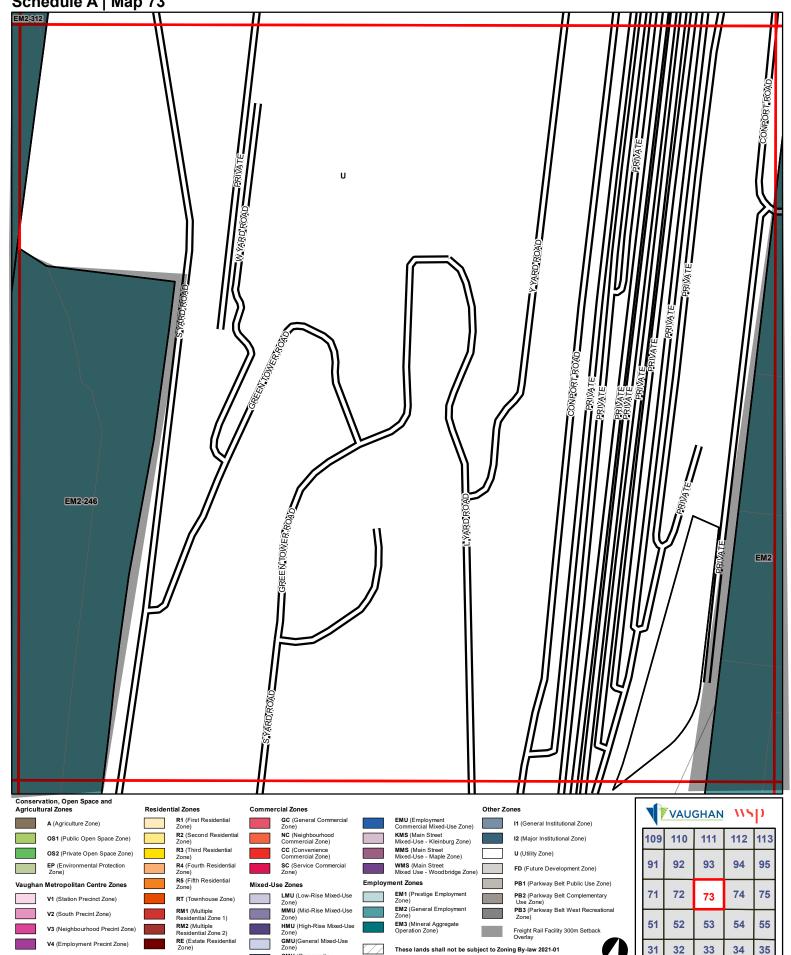




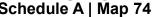


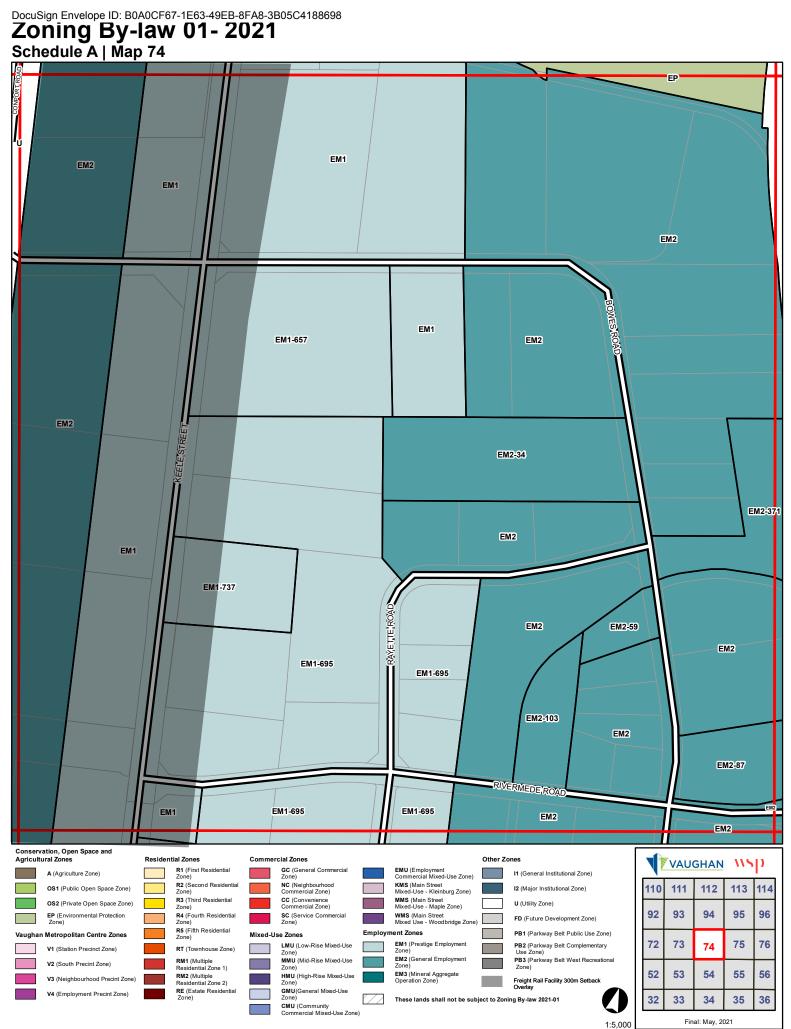


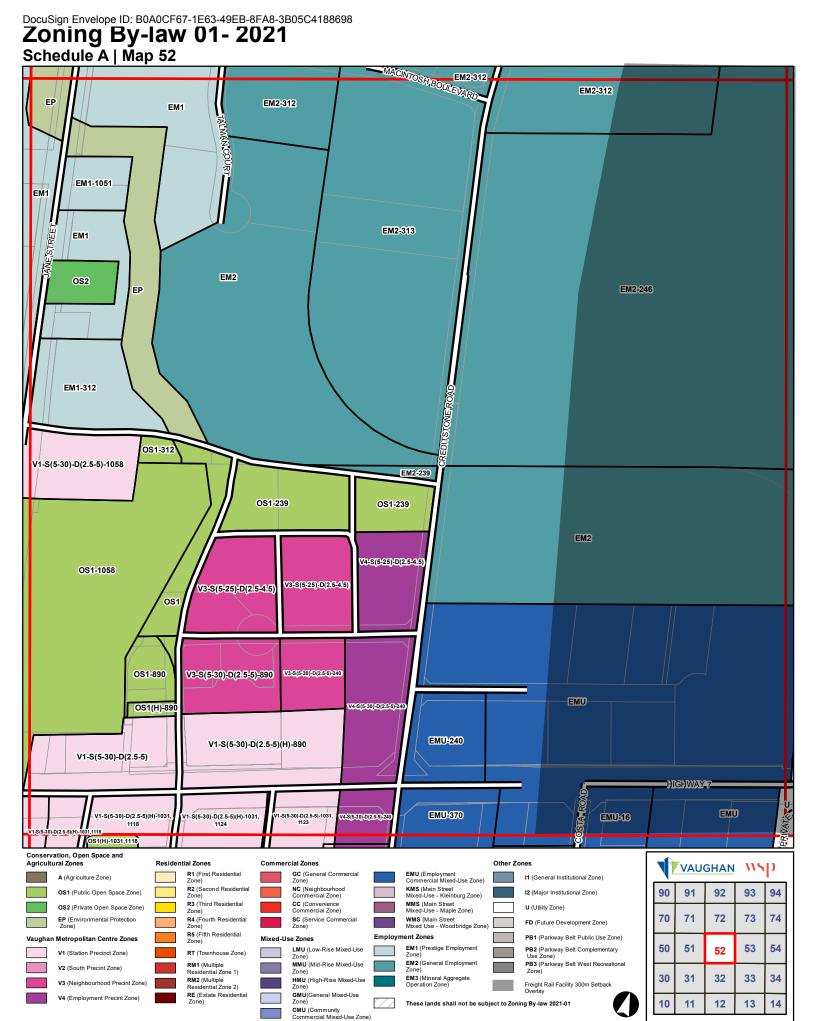




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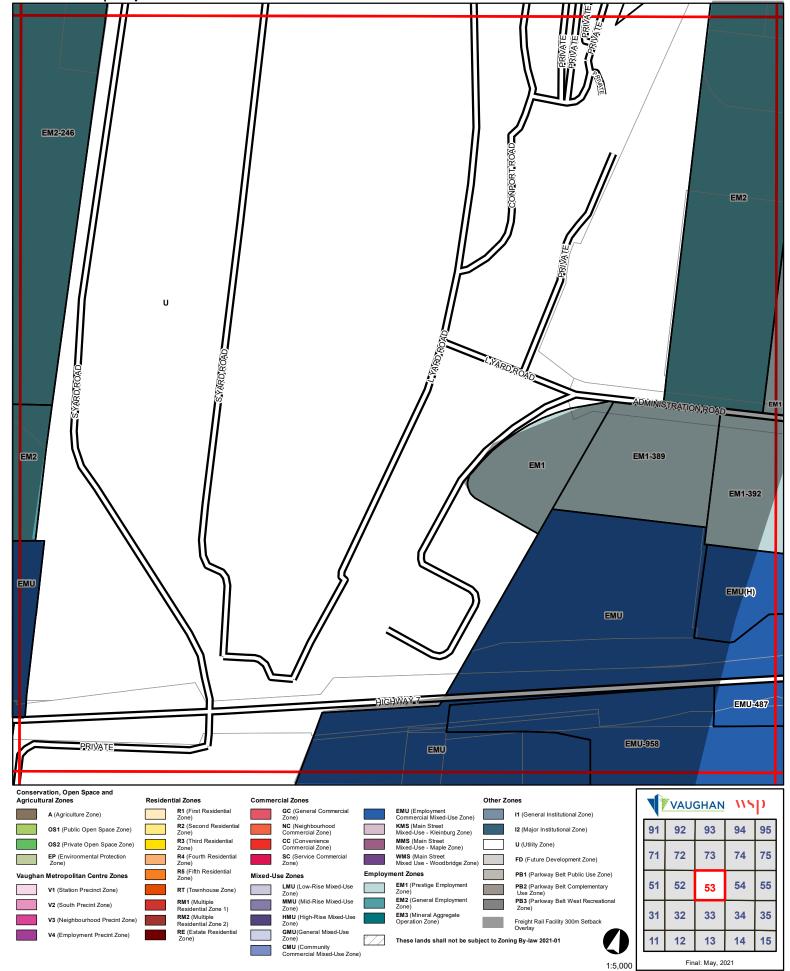


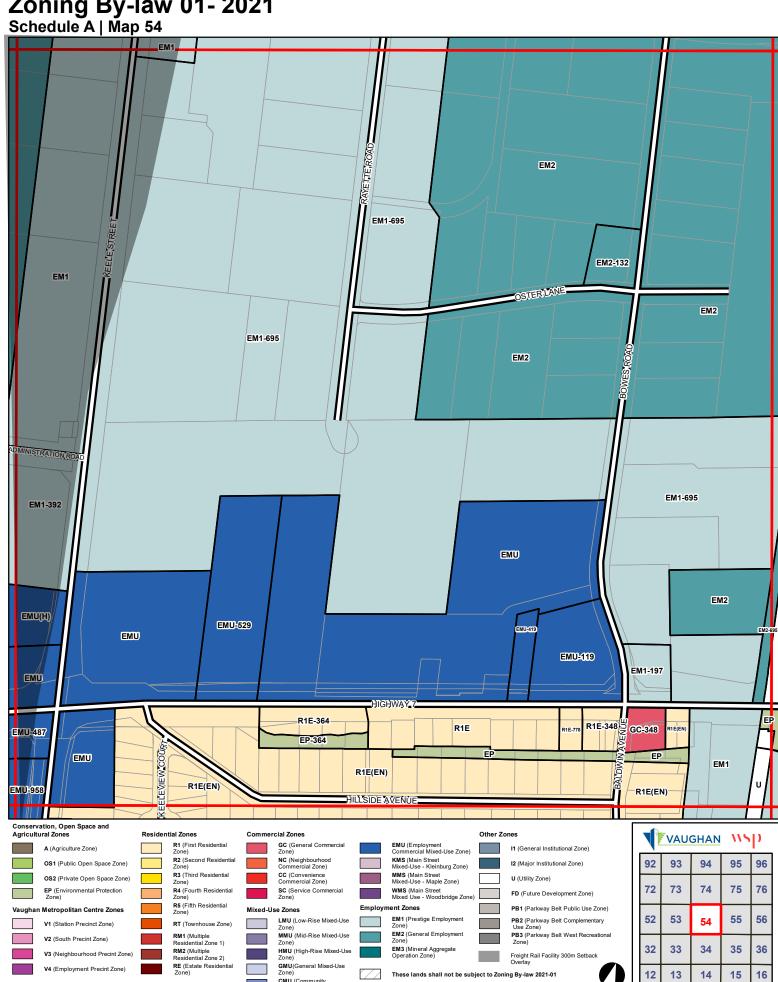




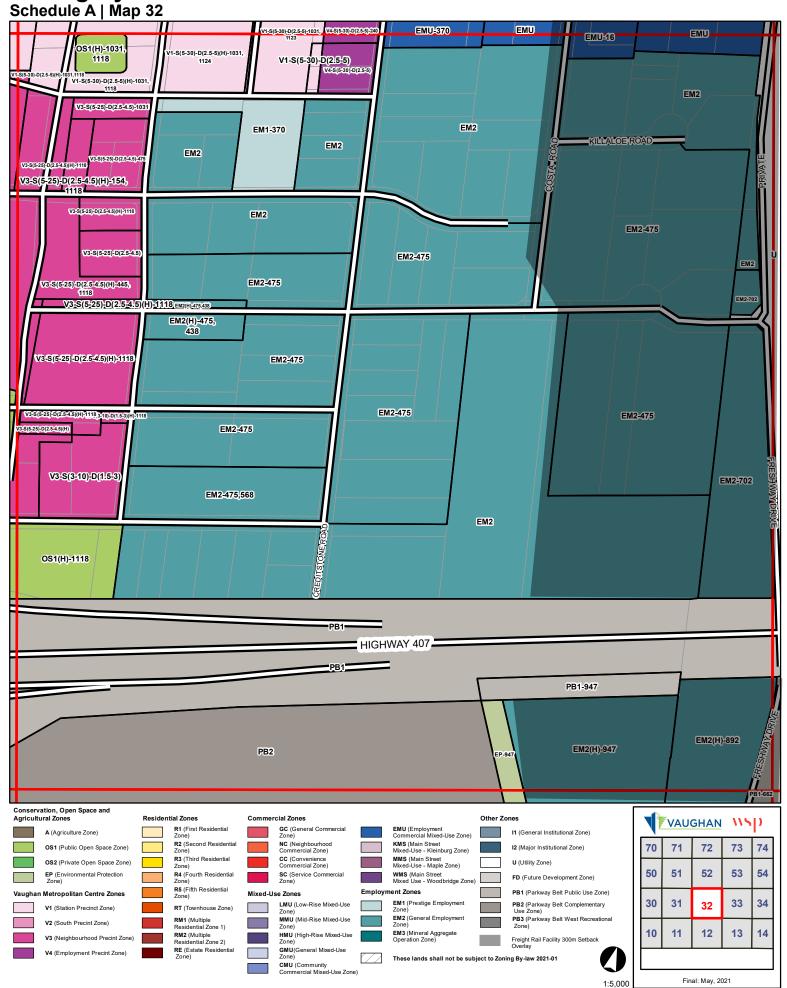
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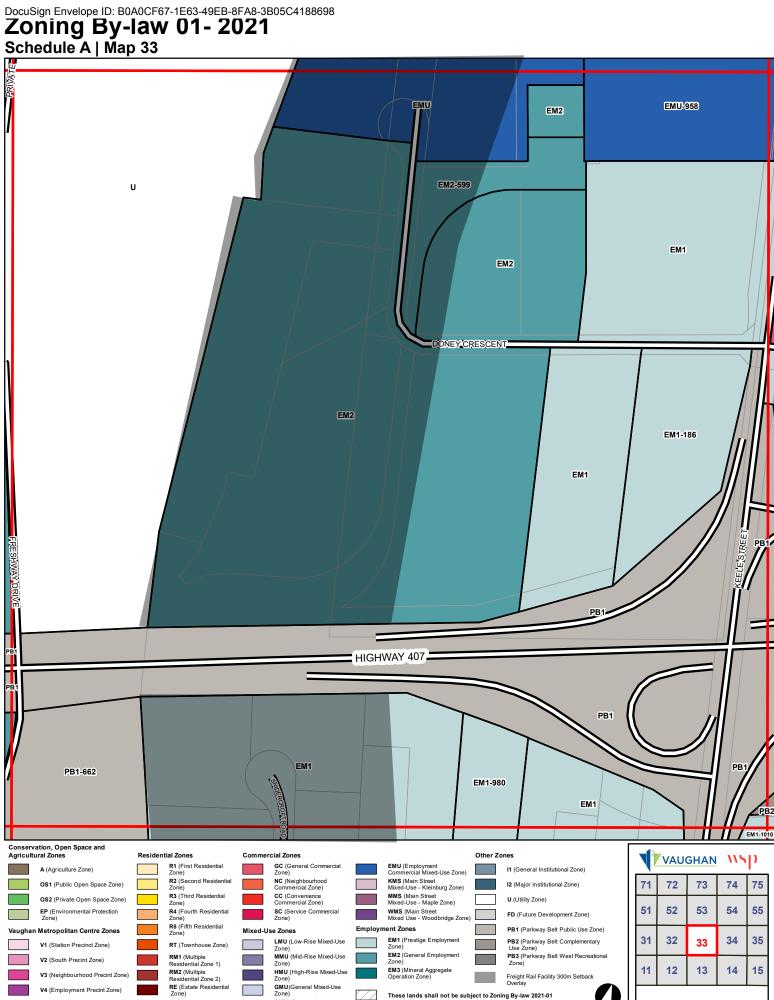






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