



## **The Corporation of the Town of Orangeville**

### **By-law Number**

#### **A By-law to authorize a Consent Agreement with Eric Merle Calder (5 Henry Street)**

Whereas Eric Merle Calder, hereinafter called "the Owner", is the registered and beneficial Owner of the property described as Lot 1 and Part of Lot 2, Block 3, Plan 216 in the Town of Orangeville, County of Dufferin, municipally known as 5 Henry Street, which is hereinafter referred to as "the property";

And whereas the Ontario Land Tribunal granted provisional approval of an application for consent to sever the property (File No. B-04/21) by an Order issued on June 20, 2022;

And whereas the Ontario Land Tribunal imposed certain conditions of provisional approval to be satisfied by the execution of a consent agreement;

And whereas the Council of the Corporation of the Town of Orangeville is empowered to enter into agreements imposed as a condition to the provisional approval of a consent, pursuant to Sections 53(12) and 51(26) of the Planning Act, R.S.O. 1990, c.P.13 as amended;

Be it therefore enacted by the municipal Council of The Corporation of the Town of Orangeville as follows:

1. That a Consent Agreement between Eric Merle Calder and the Corporation of the Town of Orangeville, in substantially the same form as the agreement attached as Schedule "A" hereto, is hereby approved;
2. And that the Mayor and Clerk are authorized and instructed to sign the same on behalf of the Corporation and to affix the corporate seal thereto.

Passed in open Council this 28th day of November, 2022.

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Lisa Post, Mayor

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Carolina Khan, Clerk

## SCHEDULE "A"

This Agreement is entered into

Between:

**Eric Merle Calder**

hereinafter referred to as "the Owner"

- and -

**The Corporation of the Town of Orangeville**

hereinafter referred to as "the Town"

### Background

1. The following are some of the facts upon which this agreement is based.
  - (a) The Owner is the registered and beneficial Owner of property legally described as Lot 1 and Part of Lot 2, Block 3, Plan 216 in the Town of Orangeville, County of Dufferin, which is hereinafter referred to as "the property" (P.I.N. 340140092 (LT)).
  - (b) This agreement is being entered into in accordance with Subsections 53(12) and 51(26) of the Planning Act, R.S.O. 1990, c.P.13 as amended, and to satisfy one of the conditions imposed by the Ontario Land Tribunal in its decision with respect to an application for consent (File B-04/21) to sever a parcel of land comprising Part 2 on Reference Plan 7R-XXXX, hereinafter referred to as the "the severed lands" and leaving as retained Part 1 on Reference Plan 7R-XXXX, hereinafter referred to as "the retained lands"

### Conditions

2. The Owner of the severed lands agrees, prior to the issuance of a building permit for any structure on the severed lands, or prior to any development on the severed lands, to submit a Grading and Servicing Plan prepared by a Professional Engineer to the satisfaction of the Transportation and Development Division. This Plan shall illustrate the proposed grading, drainage, servicing and access for the severed lands and verify that abutting properties and the municipal road allowance(s) will not be adversely impacted. This Plan shall also show the location of such things as the location of any proposed accesses to the severed lands, edge of pavement, back of curb, hydro poles, street lights, utilities, abutting structures, trees, fence lines, etc.. The Owner further acknowledges that the examination and acceptance of this Plan by the Town does not constitute an acceptance by the Town of the correctness and adequacy of the Plan.
3. The Owner of the severed lands agrees to submit to the Planning Division for approval, prior to the submission of a building permit application, elevation drawings for any future dwelling to be constructed on the severed lands, to ensure that the design of the dwelling is in character with the neighbourhood.
4. The Owner of the severed lands agrees to construct to the satisfaction of the Transportation and Development Division, the Low Impact Development design features as specified in the Low Impact Development Brief prepared by Criterium Jansen Engineers, dated September 9, 2021.
5. The Owner of the severed lands agrees, prior to the submission of a building permit application, to submit to the satisfaction of the Planning Division, an Arborist Report which details the health of existing trees along Henry Street. The Owner of the severed lands further agrees to carry-out any tree protection measures recommended by the Arborist Report and to make best efforts to

protect existing trees where they do not interfere with the proposed driveway, all to the satisfaction of the Town.

## **Municipal Services**

6. The Owner of the severed lands shall, at its sole expense, construct sanitary service and water service (hereinafter the "Services") from the front of the dwelling on the severed lands to the lot line fronting on Henry Street and shall further construct the Services beyond the front lot line on Henry Street, generally in a South-Westerly direction within the Henry Street municipal right-of-way, and shall be connected to the municipal sanitary sewer main and the water main located at, on or under William Street. The location and design of the Services shall be more particularly identified in the Grading and Servicing Plan to be provided to the satisfaction of the Town as specified by Clause 2 herein.
7. The Owner shall obtain approval for the construction of any services, and/or connections thereto, from the General Manager, Infrastructure Services of the Town or their designate before they are constructed or installed. It is the sole responsibility of the Owner and their engineers to provide proper engineering plans for any such work.
8. The Owner of the severed lands acknowledges and agrees that the design and construction of the Services and connections to the municipal sanitary sewer main and water main, shall be to a standard that is at least as good as that required by the Town's minimum standards for such services. The Town neither warrants nor makes any claims as to the sufficiency of its standards.
9. The Owner of the severed lands agrees to reinstate at its expense, any alterations to the municipal road allowance resulting from the servicing of the property.
10. The Owner of the severed lands shall be responsible, at its sole expense, and as required by the Town, for future maintenance and repair to the Services as constructed from the dwelling on the severed lands to the location where the services are connected to the existing municipal sanitary sewer and water main at or under William Street. Any and all future maintenance and repair of the Services by the Owner, including specifications of any replacement to the Services, shall be approved by the Town.

## **Stop Work Orders**

11. Upon any breach of the Agreement, the determination of which shall be within the sole discretion of the Town, the Town may, upon giving four (4) business days' notice in writing to the Owner, stop all work in progress until such breach has been rectified.

## **Municipal Expenses**

12. The Owner agrees to pay to the Town any reasonable costs that it incurs for all outside technical and professional expenses that it has incurred to date and which it will incur in the future arising out of the proposed development. These expenses do not include internal administrative technical or professional services rendered by full time employed staff.

## **Municipal Real Estate Taxes**

13. The Owner agrees to pay the current year's taxes in full on or before the signing of this Agreement, but only in circumstances where it is proposed to convey a portion of the property to another party. If the final bill for the current year's taxes has not been issued, the Owner agrees to pay all installments thereon. The Owner also agrees to pay all arrears of taxes outstanding against the property on or before the signing of this Agreement. If local improvements are outstanding, a

cash payment sufficient to commute the balance shall also be paid by the Owner.

## **Registration of Agreement**

14. The Owner agrees that Notice of this agreement with its schedules and any amendments may be registered upon the title to the land and to pay the cost of such registration as well as any further costs incurred by the Town as a result of the registration of any other document pertaining to this Agreement.

## **Arbitration**

15. If a dispute develops between the Town and the Owner as to whether an item is or is not a deficiency, such dispute or disputes shall be resolved by arbitration.
16. For the purpose of this part of the Agreement, the Owner and the Town are collectively called “the parties”. Each of them is called “the party” as the context requires.
17. Any arbitration shall be resolved in the following manner.
  - (a) If the parties can agree upon a single arbitrator, such arbitrator shall conduct the arbitration alone. If they cannot agree on a single arbitrator, then each will appoint an arbitrator and the two so appointed will appoint a third arbitrator who shall be chairman. If either party appoints an arbitrator and gives notice of the appointment to the other, the other must appoint an arbitrator within five (5) business days. If such appointment is not made within such period, the arbitrator appointed by the first party will be deemed to be a single arbitrator approved by both of them. The two arbitrators will appoint a third arbitrator within five (5) business days of the appointment of the second arbitrator.
  - (b) The arbitrator or arbitrators shall set a date for the hearing of the matters in dispute not later than eight (8) weeks from the date of appointment of the last arbitrators to be appointed.
  - (c) The party seeking the arbitration shall deliver to the arbitrator or arbitrators and the other party, at least four (4) weeks before the hearing, a statement of the matters the party is complaining about.
  - (d) The other party to the arbitration shall deliver a statement to the arbitrators and the party seeking the arbitration its position with respect to the matters complained about, at least two (2) weeks before the hearing.
  - (e) The time limits referred to above may be waived by the party who has not received any documents he should have received and the arbitration may proceed in the absence of any document if failure to deliver it is waived. If a document is not delivered and any party is taken by surprise as a result, the arbitration may be adjourned at any stage and the unnecessary costs incurred may be assessed against the party failing to deliver it.
  - (f) At the hearing each party may adduce whatever evidence it deems advisable. In addition, the arbitrator or arbitrators shall view the site of the matters complained about.
  - (g) The arbitrator or arbitrators shall make their decision as soon as possible after completion of the hearing and viewing the site. The decision (or the majority decision as the case may be) is final and is not to be subject to review by any Court or other body.
  - (h) If the result of the arbitration is in favour or largely in favour of one party, the cost of arbitration, including the expenses of that party, will be paid by the other. If the result is mixed, each party will pay its own expenses and the fees of the arbitrators will be divided equally between them. The

arbitrator or arbitrators shall make the decision as to whether the result is in favour or largely in favour of one party, or if the result is mixed.

## Default

18. The Owner acknowledges that failure to comply with its obligations set forth in this agreement shall be deemed to be a material and fundamental breach of this agreement and agrees that the Town may perform or cause to be performed, any obligations, including maintenance and repair of works described in this agreement, at the expense of the Owner and may collect any such expenses incurred by the Town in the same manner as unpaid taxes or by any other means allowable by law.
19. If there is default in any of the terms of this Agreement, the provisions of Section 446 of the Municipal Act, 2001, S.O. 2001, c.25 as it was written on the date of the signing of this Agreement shall apply with respect to such default.

## Notices

20. Any notice required or permitted to be given under this Agreement shall be in writing and may be served either personally or by mailing such notice by registered mail, postage prepaid, or if the postal service has been disrupted for any reason, by delivering such notice by a prepaid courier service as follows:

Eric Merle Calder  
5 Henry St  
Orangeville, ON  
L9W 1R6

Chief Administrative Officer  
The Corporation of the Town of Orangeville  
87 Broadway  
Orangeville, Ontario  
L9W 1K1

21. If any notice is mailed by registered mail, postage prepaid or sent by prepaid courier service as aforesaid, it shall be deemed to have been received by the party to whom it was mailed or sent on the second day following the day upon which it was received by one of Her Majesty's post offices or delivered to the courier service unless the second day ends on a Saturday, Sunday or legal holiday, in which case those days are not included in computing the two day period. Either party may, by notice to the other, designate another address in Canada to which notices mailed or delivered more than ten (10) days thereafter shall be addressed.

## Agreement Runs with Land

22. This Agreement shall enure to the benefit of the Town, its successors and assigns. The benefits and the burden of the covenants, agreements, conditions and undertakings herein contained shall run with the land and are binding upon the land and upon the Owner and its successors and assigns.

## Gender and Number

23. In this Agreement, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders.

In Witness whereof the Parties have signed this Agreement.

in the presence of ) **ERIC MERLE CALDER**  
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) \_\_\_\_\_  
)  
) Date: \_\_\_\_\_

) **THE CORPORATION OF THE TOWN OF ORANGEVILLE**  
)  
) \_\_\_\_\_  
) Lisa Post, Mayor

) Date: \_\_\_\_\_  
)  
) \_\_\_\_\_  
) Carolina Khan, Clerk  
)  
) Date: \_\_\_\_\_