

## DECISION CONSENT/SEVERANCE

<b>Date of Decision:</b>	November 15, 2024
<b>Panel:</b>	2 - Suburban
<b>File Nos.:</b>	D08-01-24/B-00187 and D08-01-24/B-00194
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	Brazmar Limited
<b>Property Address:</b>	3809 Borrisokane Road
<b>Ward:</b>	3 - Barrhaven West
<b>Legal Description</b>	Block 199, Registered Plan 4M-1681
<b>Zoning:</b>	RU [2618]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	November 5, 2024, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

[1] The Applicant wants to subdivide their property into two separate parcels of land to create one new lot for future development, as shown on the plans filed with the application.

### CONSENT IS REQUIRED FOR THE FOLLOWING

[2] The Applicant requires the Committee's consent to sever land and to establish easements/rights of way.

*Table 1 Proposed Parcels*

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00187	190.66 m	388 m (irregular)	95,626 sq. m	1 & 4	3809 Borrisokane Road
B-00194	172.82	261 m	42,557.1 sq. m	2 & 3	1730 Haiku Street

It is proposed to establish easements/rights of way as follows:

- Over Part 3 in favour of Parts 1 and 4 to provide access for servicing
- Over Part 4 in favour of Parts 2 and 3 to provide access for servicing

The property is also the subject of a Zoning By-law Amendment application (File No. PC2024-0344) under the *Planning Act*.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [3] Alison Clarke, Agent for the Applicant, and City Planner Luke Teeft were present.
- [4] There were no objections to granting this unopposed application as part of the Panel's fast-track consent agenda.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

### **Applications Must Satisfy Statutory Tests**

- [5] Under the *Planning Act*, the Committee has the power to grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Also, the Committee must be satisfied that an application is consistent with the Provincial Policy Statement and has regard for matters of provincial interest under section 2 of the Act, as well as the following criteria set out in subsection 51(24):

#### **Criteria**

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) the suitability of the land for the purposes for which it is to be subdivided;
- d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the

highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;

- f) the dimensions and shapes of the proposed lots;
- g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- h) conservation of natural resources and flood control;
- i) the adequacy of utilities and municipal services;
- j) the adequacy of school sites;
- k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

### **Evidence**

[6] Evidence considered by the Committee included all oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Applications and supporting documents, including cover letter, plans, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 31, 2024, with no concerns.
- Rideau Valley Conservation Authority email dated November 1, 2024, with no objections.
- Hydro Ottawa email dated November 1, 2024, with no comments.
- Hydro One email dated October 30, 2024, with no comments.

- Ontario Ministry of Transportation email dated October 18, 2024, with no concerns.

### Effect of Submissions on Decision

- [7] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [8] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications subject to the requested conditions agreed to by the Applicant's Agent.
- [9] Based on the evidence, the Committee is satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use and development as well as intensification and redevelopment within built-up areas, based on local conditions. The Committee is also satisfied that the proposal has adequate regard to matters of provincial interest, including the orderly development of safe and healthy communities; the appropriate location of growth and development; and the protection of public health and safety. Additionally, the Committee is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Moreover, the Committee is satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.
- [10] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision:**
1. That the Owner(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
  2. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**, to be confirmed in writing from the Department to the Committee, that each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.  
If the services are shared, and there is sufficient justification for the service locations to remain, the Owner(s) must obtain Ontario Ministry of the

Environment and Conservation and Parks (Environmental Compliance Approval – ECA), must obtain the approval of the Committee to grant easement(s) as required for access and maintenance of the services, and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at their own costs.

3. That the Owner(s) shall provide evidence that a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor or a Certified Engineering Technologist, has been submitted to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**, to be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**.
4. That the Owner convey a 3m x 9m corner sight triangle located at the intersection of Borrisokane and Haiku to the City, with all costs to be borne by the Owner(s), to the satisfaction of the **Surveys and Mapping Branch of the City**. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
5. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**, or **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **Manager of the Development Review All Wards Branch, or their designate**, or is satisfactory to **City Legal Services**, as well as a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

6. That the Owner enter into an Agreement with the City, at the expense of the Owner, which is to be registered on Title to deal with the following covenants/notices that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an existing source of environmental noise (Highway 416) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction of the **Manager of the Development Review All Wards Branch, or their designate**. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

7. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 12 meters from the existing centerline of pavement/the abutting right-of-way along Borrisokane Road, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City’s new Official Plan, if required. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.
8. That the Owner(s) file with the Committee a copy of the registered Reference Plan prepared by an Ontario Land Surveyor registered in the Province of Ontario, and signed by the Registrar, **confirming the frontage and area of the severed land. If the Registered Plan does not indicate the lot area, a letter from the Surveyor confirming the area is required.** The Registered Reference Plan must conform substantially to the Draft Reference Plan filed with the Application for Consent.
9. That upon completion of the above conditions, and **within the two-year period outlined above**, the Owner(s) file with the Committee, the “electronic registration in preparation documents” for the conveyances and grant of easements/rights of way for which the Consent is required.

*"Fabian Poulin"*  
FABIAN POULIN  
VICE-CHAIR

*"Jay Baltz"*  
JAY BALTZ  
MEMBER

*"George Barrett"*  
GEORGE BARRETT  
MEMBER

*"Heather MacLean"*  
HEATHER MACLEAN  
MEMBER

*"Julianne Wright"*  
JULIANNE WRIGHT  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 15, 2024**



Michel Bellemare  
Secretary-Treasurer

#### **NOTICE OF RIGHT TO APPEAL**

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **December 5, 2024**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The Ontario Land Tribunal has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you

have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca).

Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A “specified person” does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

### **NOTICE TO APPLICANT(S)**

All technical studies must be submitted to Planning, Real Estate and Economic Development Department a minimum of **40 working days** prior to lapsing date of the consent. Should a Development Agreement be required, such request should be initiated 30 working days prior to lapsing date of the consent and should include all required documentation including that related to transfers, easements, and postponements, and all approved technical studies. If you do not fulfill the conditions of provisional consent within the two-year period, the Planning Act provides that your application “shall be deemed to be refused”.

*Ce document est également offert en français.*

**Committee of Adjustment**  
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