

City of Hamilton DELEGATED CONSENT AUTHORITY AGENDA

Meeting #:25-6Date:July 17, 2025Time:1:00 p.m.Location:Meet as per their delegated authority –
Meetings are not livestreamed

Justin Leung, Secretary Treasurer (905) 546-2424 ext. 4144 cofa@hamilton.ca

1. Delegated Consent Authority

1.1 B-25:036 48 Humphrey Street, Flamborough (Ward 15)

Agent: W. Greenspoon-Soer Owner: Y. Park, S. Lim Pages

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COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5 Telephone (905) 546-2424, ext. 4221, 3935 E-mail: <u>cofa@hamilton.ca</u>

NOTICE OF APPLICATION VALIDATION OF TITLE

You are receiving this notice as information for review of this file.

APPLICATION	B-25:036	SUBJECT	48 Humphrey Street,
NO.:		PROPERTY:	Flamborough

APPLICANTS: Owner: Yongbum Park and Sungshin Lim Agent: Wendy Greenspoon-Soer

PURPOSE & EFFECT: To validate the title of a parcel of land under the provisions of Section 57(1) of the Planning Act, correcting a Planning Act Validation that occurred during a past real estate transaction on the subject property.

Associated Planning Act File(s): N/A

This application will be decided upon by the Consent Authority, the Director of Planning and Chief Planning, no earlier than:

Thursday, July 17, 2025

For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit <u>www.hamilton.ca/committeeofadjustment</u> Delegated Consent Authority Tab
- Email Committee of Adjustment staff at <u>cofa@hamilton.ca</u>



Subject Lands

DATED: June 30, 2025

Justin Leung, Secretary-Treasurer Committee of Adjustment Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

If you wish to be notified of the Decision of Consent Authority in respect of the proposed application, **you must make a written request** to the Secretary-Treasurer of The City of Hamilton Committee of Adjustment by email at <u>cofa@hamilton.ca</u> or by mail through City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5. A copy of the Decision will only be sent to those who request.







Wendy Greenspoon-Soer Direct Line: 416-869-1234 e-mail: wgreenspoon@garfinkle.com

May 22, 2025

SENT BY EMAIL: cofa@hamilton.ca

Planning and Economic Development Department Committee of Adjustment City Hall, 5th Floor 71 Main Street West, Hamilton, Ontario

Dear Sir/Madam:

Re: Application for validation of title - Our Client's Property: 48 Humphrey Street Hamilton, Ontario (the "Property") Legal Description: PT BLOCK 181, PLAN 62M1157 BEING PT 26 ON 62R19441; SUBJECT TO AN EASEMENT IN GROSS AS IN WE767448; SUBJECT TO AN EASEMENT FOR ENTRY AS IN WE820254; SUBJECT TO AN EASEMENT FOR ENTRY AS IN WE894463; CITY OF HAMILTON; being all PIN 17501 – 0474 (LT)

We are the lawyers for, Yongbum Park and Sungshin Lim, the registered and beneficial owners of the lands, municipally known as 48 Humphrey Street Hamilton, Ontario.

It recently came to our clients' attention that the Property was conveyed to them and subsequently mortgaged by them in contravention of section 50 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (the "*Planning Act*"). Subsection 50(21) of the *Planning Act* provides that any transfer, mortgage, or charge granted in contravention of section 50 does not "create or convey any interest in land". As a result of this discovery, our clients have instructed us to submit the enclosed application for a Certificate of Validation in order to validate their interest in the Property.

The following provides some additional background as to the basis and justification for the application: The following provides some additional background:

- The Property is one of eight townhouse dwellings shown as parts 21 to 30, inclusive, undeposited, Reference Plan 62R19441;
- The Property is designated as Part 26 on Reference Plan 62R-19441;
- On April 10, 2013, the City of Hamilton issued bylaw number 13-091 being a bylaw to designate certain lands as not being subject to part lot control (the "Bylaw");
- The Bylaw specified a two-year period of validity commencing from April 10, 2013, and expiring on April 10, 2015;
- The conveyance of the Property to our clients on May 16, 2016, by Transfer WE1119469 (the "Transfer") was approximately 11 months after the expiry of the Bylaw. Furthermore, the Transferor continued to own abutting lands as of May 16, 2016, namely the adjacent lands comprising PIN 17501- 0473 (LT);
- Accordingly, the Transfer to our clients was legally ineffective due to a violation of subdivision control provisions, a Charge granted by our client to B2B Bank on May

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16, 2016, registered as WE1119470. That charge (the "Charge") is similarly legally ineffective.

In our submission, it is fair and appropriate that the Committee of Adjustment for the City of Hamilton issue the requested Certificate of Validation in respect of the Property to validate the Transfer, the Charge, and all subsequent dealings with the Property. In this regard, we would note that:

- The Property was recently developed in conjunction with the City's approval of the site plan and the issuance of the Bylaw, all of which was considered and approved in conformity with the Town's Official Plan. applicable zoning, and good land use planning principles. No new development is proposed as part of this application.
- The Property conforms with the same criteria that apply to the granting of consents under section 53 of the *Planning Act*.

The requested Certificate of Validation would retroactively cure the *Planning Act* contravention and validate the Transfer and Charge and all subsequent dealings with the Property, by providing that section 50 of the *Planning Act* does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the Property.

The applicants have entered into an Agreement of Purchase and Sale with respect to the Property which is scheduled to close by July 31st, which is the outside extended Closing Date pursuant to an Extension Agreement between the applicant and the purchasers. As such, this matter is of some urgency. Your cooperation in expediting this matter would be greatly appreciated.

In support of the within application, we hereby enclose:

- 1. Completed Application for Consent/Validation of Title;;
- 2. Parcel register for the property being PIN 17501-0474;
- 3. Parcel register for abutting lands PIN 17501-0473;
- 4. Property Index Map;
- 5. Transfer WE1119469 registered May 16, 2016;
- 6. Charge WE1119470 registered May 16, 2016;
- 7. Reference Plan 62R19441;
- 8. Site Plan 62M1157; and
- 9. Our cheque payable to the City of Hamilton in the amount of \$545.00 (to follow by mail) in satisfaction of the application fee.

Should you require anything further in regard to the foregoing, please advise us at your earliest opportunity.

Yours very truly, **Garfinkle Biderman LLP** Per: Wendy Greenspoon-Soer

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Committee of Adjustment City Hall, 5th Floor, 71 Main St. W., Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221 Email: <u>cofa@hamilton.ca</u>

APPLICATION FOR CONSENT TO SEVER LAND

and VALIDATION OF TITLE

UNDER SECTION 53 & 57 OF THE PLANNING ACT

Please see additional information regarding how to submit an application, requirements for the required sketch and general information in the Submission Requirements and Information.

1. APPLICANT INFORMATION

	NAME	MAILING ADDRESS	
Purchaser*			Phone:
			E-mail:
Registered Owners(s)	Yongbum Park and Sungshin Lim		
Applicant(s)**			
Agent or Solicitor	Wendy Greenspoon-Soer		

*Purchaser must provide a copy of the portion of the agreement of purchase and sale that authorizes the purchaser to make the application in respect of the land that is the subject of the application. ** Owner's authorisation required if the applicant is not the owner or purchaser.

1.2	Primary contact	Purchase		☐ Owner ☑ Agent/Solicitor	
1.3	Sign should be sent to	☐ Purchase ☐ Applican		✓ Owner ☐ Agent/Solicitor	
1.4	Request for digital copy of sign If YES, provide email address where sign	✓ Yes* n is to be ser	□ No nt		
1.5	All correspondence may be sent by email Yes* No If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.				

1.6 Payment type

Credit over phone*

*Must provide number above

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	48 Humphrey Street, Hamilton		
Assessment Roll Number	303.310.07216.0000		
Former Municipality			
Lot	BLK 181	Concession	
Registered Plan Number	62M1157	Lot(s)	
Reference Plan Number (s)	62R19441	Part(s)	26

- 2.2 Are there any easements or restrictive covenants affecting the subject land?
 - 🗹 Yes 🗌 No

If YES, describe the easement or covenant and its effect:

	t for entry
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3 PURPOSE OF THE APPLICATION

- 3.1 Type and purpose of proposed transaction: (check appropriate box)
 - □ creation of a new lot(s)
 □ addition to a lot
 □ an easement
 □ validation of title (must also complete section 8)
 □ a charge

creation of a new non-farm parcel (must also complete section 10)

(i.e. a lot containing a surplus farm dwelling

resulting from a farm consolidation)

- 3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:
- 3.3 If a lot addition, identify the lands to which the parcel will be added:
- 3.4 Certificate Request for Retained Lands: Yes*
 * If yes, a statement from an Ontario solicitor in good standing that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act. (O. Reg. 786/21)

4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of subject land:

All dimensions to be provided in metric (m, m² or ha), attach additional sheets as necessary.

	Retained (remainder)	Parcel 1	Parcel 2	Parcel 3*	Parcel 4*
Identified on Sketch as:					
Type of Transfer	N/A				
Frontage					
Depth					
Area					
Existing Use					
Proposed Use					
Existing Buildings/ Structures					
Proposed Buildings/ Structures					
Buildings/ Structures to be Removed					

* Additional fees apply.

4.2 Subject Land Servicing

	a) Type of access: (ch provincial highway municipal road, sea municipal road, ma	isonally maintained			right of way other public road
	 b) Type of water supply proposed: (check appropriate box) publicly owned and operated piped water system privately owned and operated individual well 				lake or other water body other means (specify)
	_ , _ ,	operated sanitary se d operated individual	ewage system		
4.3	Other Services: (cheo	ck if the service is av	ailable)		
	electricity	☐ telephone	☐ school bussing		☐ garbage collection
5	CURRENT LAND US	E			
5.1	What is the existing o	fficial plan designatio	on of the subject land	?	

Rural Hamilton Official Plan designation (if applicable):

Rural Settlement Area:

Urban Hamilton Official Plan designation (if applicable)

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

continuation of existing use. no changes

5.2 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval?

☐ Yes ☐ No ☑ Unknown

If YES, and known, provide the appropriate file number and status of the application.

5.3 What is the existing zoning of the subject land? R6-19

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number?

5.4 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?
☐ Yes
☐ No
☑ Unknown

If YES, and known, provide the appropriate file number and status of the application.

5.5 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
	Subject

6 HISTORY OF THE SUBJECT LAND

6.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the Planning Act? П

Yes	🗆 No	🗌 Unknown
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If YES, and known, provide the appropriate application file number and the decision made on the application.

6.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.

6.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land? ☐ Yes ✓ No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

6.4	How long has the applicant owned the subject land?			
	since May 16, 2016			
6.5	Does the applicant own any other land in the City? If YES, describe the lands below or attach a separate	☐ Yes page.	✓ No	

PROVINCIAL POLICY 7

7.1 Is this application consistent with the Policy Statements issued under Section 3 of the Planning Act?

☐ Yes	🗆 No

(Provide explanation)

7.2 Is this application consistent with the Provincial Policy Statement (PPS)? (Provide explanation) □ Yes □ No

- 7.3 Does this application conform to the Growth Plan for the Greater Golden Horseshoe? □ Yes (Provide explanation) □ No
- 7.4 Are the subject lands subject to the Niagara Escarpment Plan? (Provide explanation) □ Yes

7.5 Are the subject	lands subject to	the Parkway Belt West Plan?
Yes	□ No	(Provide explanation)

- 7.6 Are the subject lands subject to the Greenbelt Plan? □ Yes □ No (Provide explanation)
- 7.7 Are the subject lands within an area of land designated under any other provincial plan or plans?

8 ADDITIONAL INFORMATION - VALIDATION

8.1 Did the previous owner retain any interest in the subject land?

☐ Yes ☑N o (Provide explanation)

The previous owner retained an interest in the abutting land at time of purchase

8.2 Does the current owner have any interest in any abutting land?

8.3 Why do you consider your title may require validation? (attach additional sheets as necessary) See attached cover letter.

9 ADDITIONAL INFORMATION - CANCELLATION

9.1 Did the previous owner retain any interest in the subject land?

Yes No (Provide explanation)

9.2 Does the current owner have any interest in any abutting land?

Yes No (Provide explanation and details on plan)

9.3 Why do you require cancellation of a previous consent? (attach additional sheets as necessary)

10 ADDITIONAL INFORMATION - FARM CONSOLIDATION

10.1 Purpose of the Application (Farm Consolidation)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate if the consolidation is for:

Surplus Farm Dwelling Severance from an Abutting Farm Consolidation

Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation

10.2 Location of farm consolidation property:

Municipal Address		
Assessment Roll Number		
Former Municipality		
Lot	Concession	
Registered Plan Number	Lot(s)	
Reference Plan Number (s)	Part(s)	

- 10.3 Rural Hamilton Official Plan Designation(s) If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm consolidation property.
- 10.4 Description of farm consolidation property:

10.5

10.6

10.7

	-
Frontage (m):	Area (m² or ha):
Existing Land Use(s):	Proposed Land Use(s):
Description of abutting consolidated farm the surplus dwelling)	m (excluding lands intended to be severed for
Frontage (m):	Area (m² or ha):
Existing Land Use:	Proposed Land Use:
Description of surplus dwelling lands pro Frontage (m): (from Section 4.1)	Area (m ² or ha): (from Section 4.1)
Front yard set back:	
a) Date of construction: ☐ Prior to December 16, 2004	After December 16, 2004
b) Condition:	□ Non-Habitable

COMPLETE APPLICATION REQUIREMENTS 11

11.1 All Applications

Application Fee

- Site Sketch
- Complete Application Form
- Signatures Sheet

11.2 Validation of Title



- Detailed history of why a Validation of Title is required
- All supporting materials indicating the contravention of the Planning Act, including PIN documents and other items deemed necessary.
- 11.3 Cancellation

All information documents in Section 11.1

Detailed history of when the previous consent took place.

All supporting materials indicating the cancellation subject lands and any neighbouring lands owned in the same name, including PIN documents and other items deemed necessary.

Other Information Deemed Necessary 11.4



Cover Letter/Planning Justification Report

Minimum Distance Separation Formulae (data sheet available upon request)

Hydro	ogeologi	cal Assessment
l i i y ai c	geologi	

Septic Assessment

Archeological Assessment

Noise Study

Parking Study



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B-25:036 — 48 Humphrey Street, Flamborough

Recommendation:

Approve — Development Planning

Proposed Conditions:

Proposed Notes:

We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road. (Legislative Approvals)

Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to Forestry. Email <u>urbanforest@hamilton.ca</u> for questions or public tree permit application. (Forestry)



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Development Planning:

Background

The purpose of Consent Application B-25:036 is to validate the title of a parcel of land under the provisions of Section 57(1) of the *Planning Act*, correcting a *Planning Act* infraction that occurred during a past real estate transaction on the subject property.

Staff note that the subject property is one of eight townhouse dwellings shown as Parts 21 to 30, inclusive in Reference Plan 62R-19441, being Part 26 specifically. The subject property was deemed not subject to Part Lot Control with the approval of By-law No. 13-091 on April 10, 2013, with the certification period expiring on April 10, 2015.

The subject property was conveyed on May 16, 2016, by Transfer WE1119469. The Transferor continued to own abutting lands as of May 16, 2016. This transfer occurred outside of the certification period and thus violated subdivision control protocols.

Analysis

Urban Hamilton Official Plan

The subject lands are identified as "Neighbourhoods" on Schedule E – Urban Structure and are designated "Neighbourhoods" on Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policies E.3.2.3 and E.3.4.3, amongst others, are applicable and permits the existing street townhouse dwelling.

Waterdown South Secondary Plan

The subject lands are designated "Medium Density Residential 2" on Map B.4.3-1 – Land Use Plan of the Waterdown South Secondary Plan. Policy B.4.3.3.7, amongst others, is applicable and permits the existing street townhouse dwelling.

Former Town of Flamborough Zoning By-law No. 6593

The subject lands are zoned Medium Density Residential (R6-19) Zone, Modified in Former Town of Flamborough Zoning By-law No. 90-145-Z. Street townhouses are a permitted use.

The validation of title is necessary to correct a *Planning Act* violation that occurred during a real estate transaction. The use of the lands meets the general intent and purpose of the Urban Hamilton Official Plan and Zoning By-law. Therefore, **staff recommend the proposed validation of title be approved.**



Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	None.
Comments:	
	 These lands are currently zoned R6-19 within Flamborough Zoning By-law 90-145-z, the use of a street townhouse is permitted.
	The lot as shown on submitted plans conforms to the regulations of the R6-19 zone.
	3. This division has no concerns with the proposed application.
Notes:	

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Forestry:

Recommendation:	Approve
Proposed Conditions:	
Comments:	There are municipal tree assets on site although it is determined that no impacts are anticipated through this application. No public tree permit is required. No Landscape plan required.
Notes:	Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to Forestry. Email <u>urbanforest@hamilton.ca</u> for questions or public tree permit application.

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	



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Notes:	We ask that the Owner agrees to physically affix the municipal numbers or
	full addresses to either the buildings or on signs in accordance with the
	City's Sign By-law, in a manner that is clearly visible from the road.

Please Note: Public comment will be posted separately, if applicable.



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B-25:036

48 Humphrey Street, Flamborough

Mississaugas of the Credit First Nation:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	MCFN's Department of Consultation and Accommodation (DOCA) have no questions or comments for you at this time. This does not indicate a position of support for the project, that the Duty to Consult and Accommodate the MCFN has been met, or that there are no adverse impacts to the MCFN's Indigenous and Treaty Rights.
	DOCA expects to be notified of any and all future project updates and/or changes. Additionally, DOCA must be notified of, invited to participate in, and provided the opportunity to review any environmental and/or archaeological assessments. At its discretion, DOCA may request capacity funding from the proponent for its consultation and engagement activities relating to the project.