

Filing Date: March 22, 2024

Hearing Date: April 23, 2024

File: B-2024-0005

**Owner/
Applicant:** **Michael Nicholson**

Address: **48 Nostalgia Court**

Ward: WARD 5

Contact: Megan Fernandes, Assistant Development Planner

Proposal:

The purpose of the application is to request the Consent of the Committee of Adjustment to validate the title of lands legally described as Part of Lot 32, Plan M1527 and Part 4, Plan 43R-28260, having a frontage on Nostalgia Court of approximately 7.89 meters (25.88 feet), a depth of approximately 33 meters (108.26 feet), and an approximate area of 362 square meters (3,896.54 square feet).

Recommendations:

That application B-2024-0004 is supportable.

Background:

Section 57 of the Planning Act gives the Committee of Adjustment the power to validate title to a property which was conveyed in contravention of Section 50 of the Planning Act. The intent of a Certificate of Validation is to correct errors in conveyance of property. The Certificate will affirm that the contravention of the Planning Act does not have the effect of preventing the conveyance or creation of any interest in the subject land.

City Staff have received two applications B-2024-0004 and B-2024-0005 requesting a Certificate of Validation. 1 Certificate of Validation will be issued to both applicants.

- **Official Plan:** The subject property is designated 'Residential' in the Official Plan;
- **Secondary Plan:** The subject property is designated 'Medium Density Residential' in the Fletcher's Creek Village Secondary Plan (Area 43); and

- **Zoning By-law:** The subject property is zoned 'Residential Street Townhouse B – Special Section 827 (R3B-827)' according to By-Law 270-2004, as amended.

Current Situation:

As stated in the cover letter and supporting application materials, the applicant has filed this validation application to correct a title error which first occurred in 2005. The property transfer was contrary to the Planning Act and did not pass in good title to the purchasers. The issuance of the Certificate of Validation corrects an issue with the ownership on title for the subject property. It does not affect planning matters. A validation of title will provide the current owner with good title to the property and allow the current mortgagee to have a valid security interest in the property.

Staff has undertaken a thorough review of this proposal, relative to the provisions prescribed within Section 51(24) of the Planning Act (as summarized on Schedule "A" attached to this report), and advise that the proposed consent application to validate title is considered to represent proper and orderly planning and can be supported from a land use perspective.

Respectfully Submitted,

Megan Fernandes

Megan Fernandes, Assistant Development Planner

SCHEDULE "A"

**CRITERIA TO BE CONSIDERED UNDER SECTION 53(12) & 51(24) OF THE
PLANNING ACT**

CRITERIA TO BE CONSIDERED	ANALYSIS
a) <i>The effect of development of the proposed subdivision on matters of provincial interest;</i>	The proposed consent to validate has no effect on matters of provincial interest.
b) <i>Whether the proposal is premature or in the public interest;</i>	The proposal is in the public interest and is not premature.
c) <i>Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	The application does not present any concern with regard to the Official Plan or adjacent plans of subdivision.
d) <i>The suitability of the land for the purposes for which it is to be subdivided;</i>	No change in use is proposed and the land is suitable for the existing use.
e) <i>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;</i>	The proposal has no impact on the roadway network.
f) <i>The dimensions and shapes of the proposed lots;</i>	No new lots are proposed.
g) <i>The restrictions or proposed restrictions, if any, on the land proposed to be subdivided; or the buildings or structures proposed to be erected on it and the restrictions, if any, on adjoining land;</i>	No restrictions are required.
h) <i>The conservation of natural resources and flood control;</i>	No concerns.
i) <i>The adequacy of utilities and municipal services;</i>	No concerns.
j) <i>The adequacy of school sites;</i>	None required.
k) <i>The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;</i>	The application has no impact on energy conservation.

l) <i>The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy</i>	The proposed access and passage easement has no impact on matters of energy conservation.
m) <i>The interrelationship between the design of the proposal 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.</i>	The application has no impact on matters of site plan control.