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June 20, 2023.

Committee of Adjustment
City of Ottawa
4th Floor, 101 Centrepointe Drive
Ottawa, ON K2G 5K7
Attn: Michel Bellemare, Secretary-Treasurer

Dear Mr. Bellemare:

**Re: Application for Validation of Title, *Planning Act* s. 57
PIN 04546-0091 (R), PIN 04546-0194 (R)
Instrument No. N312512**

We are solicitors for Antonio Falbo and Maria Falbo (the “**Owners**”), the registered owners of the lands described as follows (the “**Lands**”):

PIN	Legal Description
PIN 04546-0091 (R)	Part of Lot 27, Concession 4 (Huntley), designated as Part 1 on Plan 5R-9380
PIN 04546-0194 (R)	Part of Lot 27, Concession 5 (Huntley); Part of Road Allowance between Concessions 4 & 5 (Huntley); West Carleton (Being Parts 2 and 3 on Plan 5R-9380)

The Lands were not converted to Land Titles Conversion Qualified (“**LTCQ**”) when the PINs were created in 1999 and remain in the Registry System.

The Owners wish to have the lands brought into LTCQ.

Ottawa Office

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The purpose of this application is to validate the Instrument registered as No. N312512 on November 4, 1985 to allow this to be done.

The Lands

The Lands are as shown on Figures 1 and 2 below.

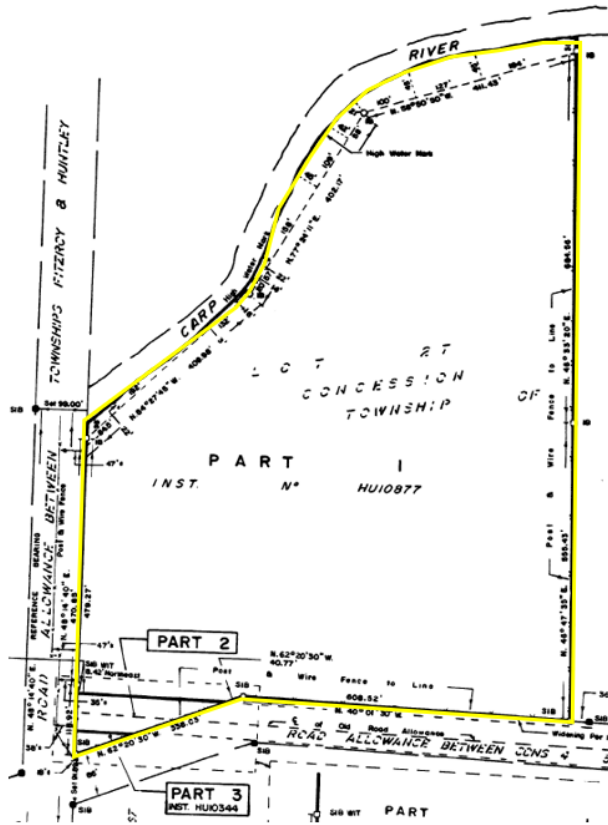


Figure 1: Excerpt of Plan 5R-9380 (enclosed)

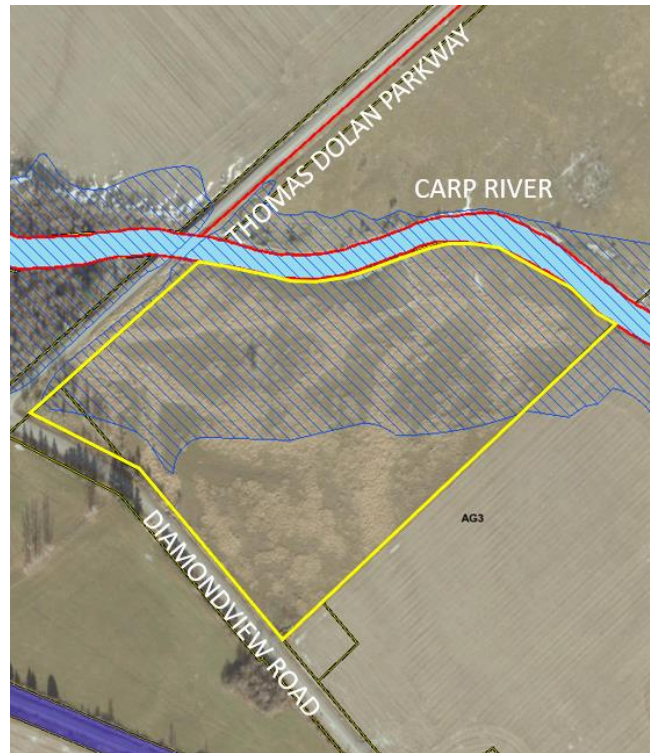


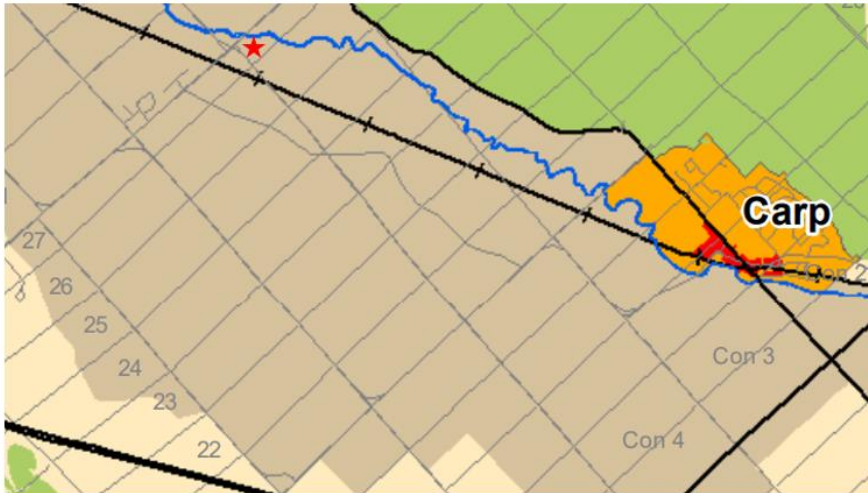
Figure 2: GeoOttawa Image

The Lands are vacant with approximately 179.5 m of frontage on Thomas Dolan Parkway, 294 m of frontage on Diamondview Road, and an area of approximately 9 ha (24.12 acres). The Carp River runs along the northern boundary of the Lands. The Lands in Ward 5 – West Carleton/March, approximately midway between the Village of Kinburn and the Village of Carp.

City of Ottawa Policy Documents

City of Ottawa Official Plan

The Lands are designated Agricultural Resource Area in the City of Ottawa's Official Plan (See Figure 3).



Schedule B9 - Rural Transect DESIGNATIONS / DÉSIGNATIONS

 Agricultural Resource Area

Figure 3: Excerpt of Official Plan, Schedule B9

The goals of the Agricultural Resource Area Designation are to protect farmland for regional food security; support diversification of farming operations to increase local supply of goods and services in the regional economy; and to protect farmland from uses that would impede productive farming operation.

Residential uses in Agricultural Resource Areas are limited to a detached dwelling on a lot fronting an existing public road and/or accommodation for full-time farm labour. Lot creation is prohibited unless all of the following are met:

- a) The new lot contains an existing habitable dwelling made surplus through farm consolidation;
- b) As a condition of severance, the retained lands are zoned to prohibit residential uses;
- c) The severed lot is of a size that minimizes the loss of agricultural land;
- d) The new lot can be adequately serviced;
- e) The new lot may only contain buildings or structures including a dwelling unit that are accessory or secondary to the principal residential use; and
- f) Only one lot may be created.

Comprehensive Zoning By-law 2008-250

The Lands are zoned Agricultural Zone, Subzone 3 (“**AG3**”) in the City’s Comprehensive Zoning By-law No. 2008-250 (See Figure 2). As shown on Figure 2, a large portion of the Lands are subject to the Flood Plain Overlay.

Agricultural Zone, Subzone 3

The purpose of the AG - Agricultural Zone is to:

1. recognize and permit agricultural uses in areas designated **Agricultural Resource Area** in the Official Plan;
2. restrict the range of permitted uses to agricultural, forestry and related accessory uses in order to preserve these prime agricultural lands from loss to other uses;
3. regulate uses in a manner that respects the character of the area and minimizes land use conflicts; and,
4. identify, through the use of subzones, those existing farm lots having lot area and lot width minimums that are less than the minimums required in the principal Agricultural zone.

Permitted uses in the AG zone, residential uses include a group home, one detached dwelling, home-based business, home-based daycare, secondary dwelling unit.

Non-residential uses include agricultural uses, agricultural-related uses, bed and breakfast, Cannabis Production Facility, environmental preserve and educational area, equestrian establishment, forestry operation, kennel, and on-farm diversified uses.

In accordance with Table 212A, the AG1-AG3 subzones are used to recognize existing smaller sized agricultural lots that do not meet the AG zone requirements. In accordance with Table 211, the minimum required lot area for uses other than agricultural use, equestrian establishment and forestry is 0.2 hectares. Subsection 212(2a) note that “there are no minimum lot width and lot area requirements for an agricultural use that exclude livestock-related food production”. The Lands comply with the lot width and lot area requirements of the AG3 subzone for uses other than agricultural use, equestrian establishment and forestry. The minimum required lot area for agricultural use, equestrian establishment and forestry is 10 hectares and the minimum required lot width is 60 metres. The Lands are not suitable for these uses.

Flood Plain Overlay

The provisions of the Flood Plain Overlay take precedence over the provisions of the underlying AG3 zone. They apply to land uses within an area affected by a flood plain overlay in order to restrict development in a floodplain area to minimize the threat of injury or loss of life and prohibit land uses where substances of a chemical, hazardous or toxic nature are used which could contaminate

potential flood waters; where flooding may compromise the ability to deliver essential services, or where flooding may cause unacceptable risk of property damage.

Despite the provisions of the underlying zone or other zoning provisions of the Zoning By-law, development is prohibited within any area subject to a floodplain overlay.

Development on the Lands is prohibited within the area that is subject to the floodplain overlay as shown in blue hatching on Figure 2.

Application History

We have completed a full 40-year search of title of the Lands and advise as follows:

- a. By Transfer/Deed registered March 4, 1980 as No. NS81027, William George Greene acquired lands described as the Northeast half and the Southwest half of Lot 27, Concession 4 (Huntley), save and except Parts 1 and 2 on Plan 5R-4697 and Parts 1 and 2 on Plan 5R-3943. The legal description in the said Transfer/Deed No. NS81027 did not except the Carp River which crosses over the lands described therein;
- b. By Transfer/Deed registered November 4, 1985 as No. N312512 the said William George Greene (the "**Transferor**") conveyed the Lands, being Parts 1, 2 and 3 on Plan 5R-9380, being Part of Lot 27, Concession 5 (Huntley), part of the road allowance between Concessions 4 and 5, part of Lot 27 Concession 4 (Huntley), being that part of the said Lot 27, Concession 4 lying southwest of the Carp River;
- c. Consent under the *Planning Act* was not obtained for Transfer/Deed No. N312512, as the Carp River, which bisected the lands owned by the Transferor, was navigable water, thus causing a natural severance.

We have reviewed the Crown Patent issued June 1, 1824 to John LeBreton for the lands described as the Northeast half and the Southwest half of Lot 27, Concession 4 (Huntley) (the "**Crown Patent**") and confirm the following:

- a. The Crown Patent reserved all navigable waters;
- b. There was no express grant of the bed of the Carp River (the "**River Bed**") in the Crown Patent;
- c. The Carp River is navigable and the River Bed is therefore vested in the Crown pursuant to the provisions of the *Beds of Navigable Waters Act*.

Validation Certificate:

The Applicant seeks a Validation Certificate for the benefit of the Lands pursuant to Section 57 of the *Planning Act*, R.S.O 1990, c. P.13. A Validation Certificate is required to cure a past contravention of Subsection 50(3)(b) of the *Planning Act*, which occurred when Transfer/Deed No. NS312512 was registered on the assumption that the Carp River constituted a natural severance line; an assumption that has since been refuted by the Land Registry Office.

Events Leading up to the possible Contravention of Planning Act:

A contravention of the Planning Act may have occurred at the registration of Transfer/Deed No. NS312512 on November 4, 1985. Through this Instrument, the Transferor conveyed the Lands on the assumption that Consent under the Planning Act was not required as the Carp River, which bisected the lands owned by the Transferor, was navigable water, thus causing a natural severance.

At the time of the registration of Transfer/Deed No. N312512, the Transferor owned abutting lands. The abutting lands, now described as PIN 04564-0092 (R), being Part of Lot 27, Concession 4, Huntley, are shown on the PIN Map below (Figure 4).

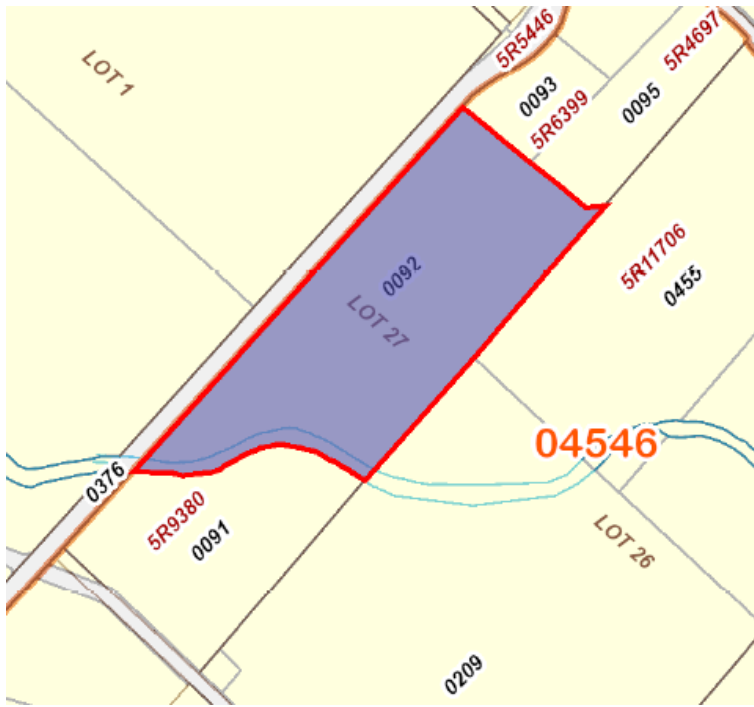


Figure 4: PIN Map: 04564-0092

Chain of Title

The following Table depicts the chain of title for PIN 04546-0091 (R) during the past 40 years (1983-2023):

PIN 04546-0091 (R)
Transfer/Deed registered 1980/03/04 Registration No. NS81027 Transfer to: GREEN, WILLIAM GEORGE
Transfer/Deed registered 1985/11/04 Registration No. N312512 Transfer to: MCMURTRY, JOHN GILBERT MCMURTRY, JAMES KEITH
Transfer/Deed registered 1986/12/04 Registration No. N367557 Transfer to: FALBO, GIOVANNI ERNESTO FALBO, ANTONIO
Transfer/Deed registered 1995/07/17 Registration No. N723833 Transfer to: FALBO, ANTONIO FALBO, MARIA



The following Table depicts the chain of title for PIN 04546-0194 (R) during the past 40 years (1983-2023):

PIN 04546-0194 (R)
Transfer/Deed registered 1985/11/04 Registration No. N312512 Transfer to: MCMURTRY, JOHN GILBERT MCMURTRY, JAMES KEITH
Transfer/Deed registered 1986/12/04 Registration No. N367557 Transfer to: FALBO, GIOVANNI ERNESTO FALBO, ANTONIO
Transfer/Deed registered 1995/07/17 Registration No. N723833 Transfer to: FALBO, ANTONIO FALBO, MARIA



Planning Act Requirements

Section 57 of the *Planning Act* provides as follows:

Validation certificate

57 (1) A council authorized to give a consent under section 53, other than a council authorized to give a consent pursuant to an order under section 4, may issue a certificate of validation in respect of land described in the certificate, providing that the contravention of section 50 or a predecessor of it or of a by-law passed under a predecessor of section 50 or of an order made under clause 27 (1) (b), as it read on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor of it does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land. 1993, c. 26, s. 63; 1996, c. 4, s. 30 (1).

...

Criteria for certificate

(6) No certificate shall be issued under subsection (1) unless the land described in the certificate of validation conforms with the same criteria that apply to the granting of consents under section 53. 2021, c. 25, Sched. 24, s. 7.

The Committee has the authority to grant the requested Validation Certificate pursuant to Section 53 of the *Planning Act*, considering Section 51(24), as follows:

<i>Planning Act section 51(24)</i>	Rationale
Criteria <u>(24)</u> 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,	-No present or future inhabitant will be negatively impacted by the requested Validation Certificate.
(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;	No development is proposed.
(b) whether the proposed subdivision is premature or in the public interest;	- The Validation Certificate is not premature and is in the public interest. The Lands have been used in their present form since acquired by the Owners in 1995. No change in use is proposed.
(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;	-The Lands conform to the official plan.

(d) the suitability of the land for the purposes for which it is to be subdivided;	-No change in use is proposed. The Lands are vacant.
(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing.	-No affordable housing units are proposed.
(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;	-No new development is proposed; no new highways are contemplated.
(f) the dimensions and shapes of the proposed lots;	- The dimensions and shape of the Lands will not change. The dimensions and shape of the Lands were established by the development of Thomas Dolan Parkway, Diamondview Road, and the presence of the Carp River.
(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;	-Not applicable.
(h) conservation of natural resources and flood control;	-A portion of the Lands are within the Flood Plain Overlay. No development is proposed.
(i) the adequacy of utilities and municipal services;	- The Subject Properties vacant. No new development is proposed and there will be no increased demand on any services.
(j) the adequacy of school sites;	- No new development is proposed and there will be no increased demand on any services.
(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;	- Not applicable as no new development is proposed.
(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and	- Not applicable as no development is proposed.
(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	- No development is proposed.

or subsection 114 (2) of the <i>City of Toronto Act</i> , 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).	
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Please note that there are no outstanding encumbrances pertaining to the Lands.

Enclosures

The following enclosures are submitted in support of the Application for a Validation Certificate:

- 1) Application for Consent (Validation of Title);
- 2) Owner's executed Authorizations for the Application;
- 3) Parcel Abstract for PIN 04546-0091;
- 4) Parcel Abstract for PIN 04546-0194;
- 5) Plan 5R9380;
- 6) Instrument Nos. NS81027, N312512, N367557, N723833;
- 7) Our client's cheque in the amount of \$1,969.00 for the Application Fee.

Please do not hesitate to contact me should you have any questions or concerns regarding the Applications or this submission. We look forward to the assignment of a hearing date.

Yours very truly,



Krista Libman
KML/

Encl.