

Memorandum to the City of Markham Committee of Adjustment

September 21, 2023

File: B/036/23
Address: 46 and 48 Hughson Drive, Markham
Applicant: David Chan
Hearing Date: Wednesday, September 27, 2023

The following comments are provided on behalf of the Central Team. The Applicant is seeking a Certificate of Validation for the subject properties having determined that the issuance of the Certificate of Official (File B/13/18) was reciting the incorrect reference plan, and therefore is in contravention of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended (the "*Planning Act*").

Proposal

The subject properties are municipally known as 46 and 48 Hughson Drive and consists of two (2) parcels, legally described as below and as shown in Appendix A:

- 46 Hughson Drive: Part of Lot 20, Plan 4556, being Part 1 on Plan 65R-38298
- 48 Hughson Drive: Part of Lot 20, Plan 4556, being Part 2 on Plan 65R-38298

The purpose of this application is to obtain a Certificate of Validation due to a contravention of Section 50 of the *Planning Act* or a predecessor of it, or of a by-law passed under a predecessor of Section 50, or an order made under clause 27(1)(b) of the *Planning Act* as it reads on the 25th day of June, 1970, 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 the parcel of lands previously described. There is no physical change proposed to the subject property.

COMMENTS

When considering an application to validate title, Section 57(6) of the *Planning Act* states that the lands that are subject to the validation certificate shall conform with the same criteria that applies to the granting of consents under Section 53. Staff note that public notice requirements and appeal rights are not applicable to validation of title applications.

Section 57(1) of the *Planning Act* allows a Council authorized to grant consents, or its delegate, being the Committee of Adjustment, the ability to issue a Certificate of Validation that states that a prior contravention of the subdivision control provisions or of a by-law passed under a predecessor of Section 50 of the Act are deemed to have never had the effect of preventing the conveyance of land or the creation of land. In essence, the validation certificate corrects a *Planning Act* breach that has occurred.

The purpose of this application is technical in nature. As such, Staff are of the opinion that this application conforms with the criteria that applies to consents and will continue

to maintain the intent of the Official Plan, Zoning By-law, and is compatible with the surrounding context.

CONCLUSION

Staff have reviewed the application with respect to Section 57 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and have no concerns with the proposal as the intent is to retroactively rectify a *Planning Act* contravention. Based on the aforementioned, Planning Staff have no objection to the issuance of a Certificate of Validation.

PREPARED BY:



Deanna Schlosser, RPP MCIP, Senior Planner, Central District

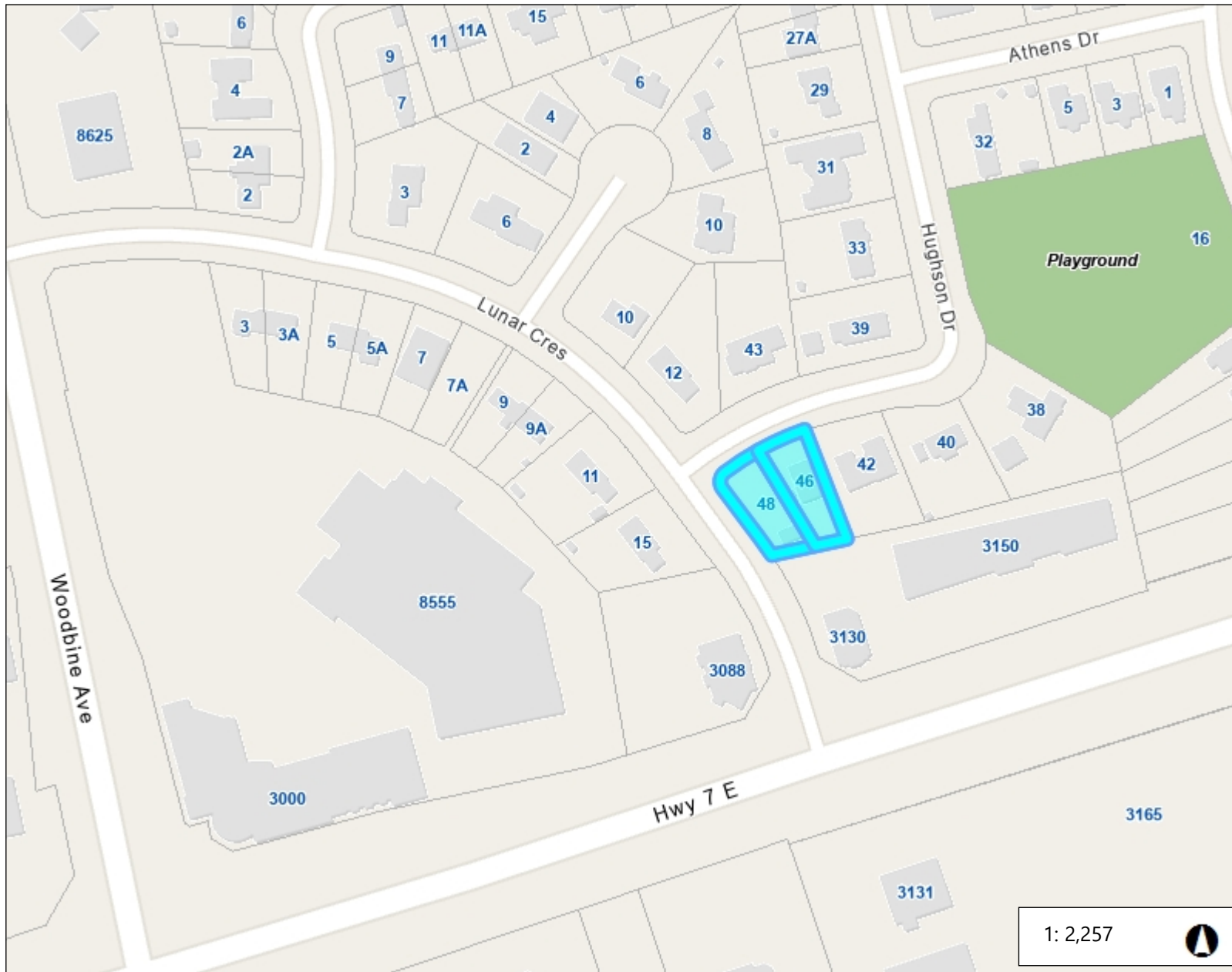
REVIEWED BY:



Melissa Leung, RPP MCIP, Senior Planner, Central District

APPENDICES

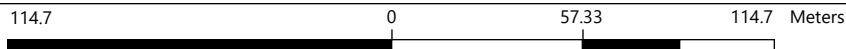
Appendix A – Location Map



Legend

Subject Lands

1: 2,257



Notes