
TO: GENERAL COMMITTEE

SUBJECT: DELEGATION OF APPROVAL AUTHORITY FOR CERTIFICATE OF CANCELLATION AND VALIDATION OF TITLE UNDER SECTIONS 53(45) AND 57 OF THE PLANNING ACT

WARD: ALL

PREPARED BY AND KEY CONTACT: T. THOMPSON, RPP, MANAGER OF GROWTH AND DEVELOPMENT, EXT. 5485
C. MCLAREN, RPP, MANAGER OF PLANNING, EXT. 4719

SUBMITTED BY: M. BANFIELD, RPP, DIRECTOR OF DEVELOPMENT SERVICES

GENERAL MANAGER APPROVAL: B. ARANIYASUNDARAN, P. ENG., PMP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the authority to approve applications for Certificates of Cancellation and Validation of Title be delegated to the Director of Development Services, or their designate, in accordance with the Delegation of Powers and Duties Policy.
2. That Schedule "K" of Fees By-law 2023-023 be amended by adding the following fee:
 - a) Certificate of Cancellation Fee: \$751.14.

PURPOSE & BACKGROUND

Report Overview

3. On April 15, 2021, the Ontario Government introduced amendments to the *Planning Act* through Bill 276, related to the subdivision of land in the Province. Bill 276 was given Royal Assent on June 3, 2021. Proclamation occurred on January 1, 2022, and the amendments are now law.
4. The addition of Section 53(45) allows for an application to cancel a previously issued consent and enables the applicant to effectively merge properties that were previously severed.
5. A similar technical consent is Validation of Title under Section 57 of the *Planning Act*. Validation of title is used to correct errors in title or ownership; however, it is rarely applied for. With recent changes in 2021 to remove compliance tests to municipal planning instruments, it has essentially become an administrative process that requires no circulation or public consultation.
6. The purpose of this Staff Report is to have Council delegate the approval authority for the issuance of applications for Certificates of Cancellation and Validation of Title in order to expedite the land division and / or consolidation process.

ANALYSIS

Certificates of Cancellation

7. There are rare times when an owner owns property that is the subject of an unstipulated consent and wants it cancelled. Once land is conveyed with a consent, Section 50(12) applies, and the owner never needs another consent to deal with the identical parcel of land. As a matter of law, it is a separately conveyable parcel of land forever.
8. There may be times when a prior consent is standing in the way of further uses of the property. An example of this situation is if an owner owns two abutting parcels of land, one of which has the benefit of a prior consent, and the owner wants to develop the two properties as one, but the *Planning Act* would allow the owner to still transfer the consented half of the property when the intention is that it be a merged property with the abutting parcel.
9. The addition of Section 53(45) permits an owner of a parcel of land previously conveyed with an unstipulated consent to apply for the issuance of a certificate of cancellation to “cancel” a previously received consent.
10. The effect of the cancellation certificate is that from the time of registration on title, the parcel is considered no longer to have been conveyed with an unstipulated consent and Section 50(12) no longer applies to the parcel. It causes the merger of the previously conveyed property with any abutting land that the owner might own.
11. When a cancellation certificate is received, staff will conduct a review to ensure the application contains all required documentation and information.
12. There are currently no proposed requirements for criteria for the cancellation certificate under the *Planning Act* and formal circulation is not required. The certificate of cancellation does not affect planning issues, adjacent properties, the Official Plan or Zoning By-law.
13. Delegation of the approval authority to give consent includes the issuance of certificates of cancellation under Section 53(46) of the *Planning Act*.
14. An application fee for the certificate of cancellation is required to be established by by-law. The proposed fee would be the same as the current fee for validation of title as the two applications are similar as they are technical consents.

Validation of Title

15. Section 57 of the *Planning Act* is most often used to validate or correct a prior registered document that contravened the Act and thereby did not create an interest in land. Validations of title involve legal ownership and understanding the history of ownership of the property and what resulted in the error which is typically described in legal correspondence. If the approval authority is satisfied, the issued certificate will deem the contravention to have never had the effect of invalidating the document.
16. Validation of title is considered a technical consent and does not require circulation to the public or for departmental/agency consultation. The effect of the validation certificate may be to create a new parcel of land but more typically results in a valid document that relates to an already publicly recognized and existing separate parcel of land.

17. Related O. Reg. 144/95 previously required that no validation could occur without compliance with the official plan, zoning by-law and any Minister's zoning order. This regulation was revoked on January 1, 2022. With the repeal of the official plan and zoning compliance, the validation certificate is now essentially an administrative process that could be delegated to staff instead of the Committee of Adjustment.
18. Delegation of the approval authority to give consent includes the issuance of validation of title under Section 54(5) of the *Planning Act*.
19. A fee is already established for an application for validation of title so no new fee is required and no change to the fee is proposed as part of delegating approval authority.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

20. There are no environmental and/or climate change impact matters related to the recommendation.

ALTERNATIVES

21. The following alternatives are available for consideration by General Committee:

<u>Alternative #1</u>	General Committee could maintain the existing process with respect to the Certificate of Cancellation and Validation of Title. This alternative is not recommended as it does not result in process improvements that will expedite corrections in the land division process through these two technical applications that do not require circulation or public consultation and can be facilitated in a timely manner by staff instead of the Committee of Adjustment.
------------------------------	--

FINANCIAL

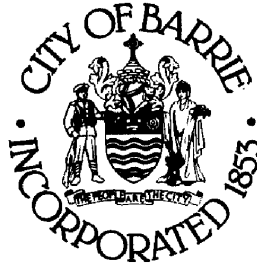
22. There are no financial implications for the Corporation resulting from the proposed recommendation with exception of a new fee for the cancellation of certificate application. If approved, it is anticipated that there would be a reduction in costs related timing of development projects for applicants.

LINKAGE TO 2022-2026 STRATEGIC PLAN

23. The recommendation(s) included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan:
 - Responsible Governance
24. In accordance with Council's goals, the delegation of approval authority will provide greater efficiencies in the development approvals process while continuing to maintain appropriate measures to address technical and administrative requirements.

APPENDIX "A"

Proposed By-Law



Bill No. XXX

BY-LAW NUMBER 2023-XXX

A By-law of The Corporation of the City of Barrie to provide for the delegation of authority to approve applications for Validation of Title and Certificate of Cancellation in the City of Barrie.

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 10 of the Municipal Act, 2001, provides that a single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public and may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS Section 23 of the Municipal Act, 2001, provides that a municipality may delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in the Act;

AND WHEREAS Section 23.4 of the Municipal Act, 2001, provides that no delegation of a legislative power shall be made to an individual described in clause (1) (c) unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power;

AND WHEREAS pursuant to Section 227 of the Municipal Act, 2001, it is the role of officers and employees of the municipality (a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions; (b) to undertake research and provide advice to council on the policies and programs of the municipality; (c) to carry out the other duties required under the Act or any other Act and other duties as assigned by the municipality;

AND WHEREAS pursuant to Section 53(45) of the Planning Act, R.S.O. 1990, c.P.13, an owner of land that was previously conveyed with a consent, or the owner's agent duly authorized in writing, may apply to the council or the Minister, whichever is authorized to give a consent in respect of the land at the time of the application, for the issuance of a certificate of cancellation of such consent. The certificate must provide

that subsection 50 (12) does not apply in respect of the land that was the subject of the consent and that subsection 50 (3) or (5), as the case may be, applies to a subsequent conveyance or other transaction involving the land;

AND WHEREAS pursuant to Section 45(46) of the Planning Act, R.S.O. 1990, c.P.13, a delegation by the Minister under section 4 or by a council or planning board under section 5 of the Minister's authority for the giving of consents under this section shall be deemed to include the authority to issue certificates of cancellation under subsection (45);

AND WHEREAS pursuant to Section 57(1) of the Planning Act, R.S.O. 1990, c.P.13, a council authorized to give a consent under Section 53 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;

AND WHEREAS pursuant to Section 54(5) of the Planning Act, R.S.O. 1990, c.P.13, the council of a single-tier municipality authorized to give a consent under section 53 may by by-law delegate the authority of the council under Section 53 or any part of that authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied, to a municipal planning authority or to the committee of adjustment.

AND WHEREAS the Council of The Corporation of the City of Barrie adopted Motion 23-G-XXX.

NOW THEREFORE the Council of The Corporation of the City of Barrie enacts the following:

1. **THAT** the Director of Development Services or their designate be delegated the authority to approve applications for Certificates of Cancellation under Section 53(45) of the *Planning Act*;
2. **THAT** the Director of Development Services or their designate be delegated the authority to approve applications for Validation of Title under Section 57 of the *Planning Act*;
3. **THAT** this By-law shall come into force and effect immediately upon the final passing thereof.

READ a first and second time this ____ day of ____, 2023.

READ a third time and finally passed this ____ day of ____, 2023.

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – A. NUTTALL

CITY CLERK – WENDY COOKE