



TO: GENERAL COMMITTEE

SUBJECT: REMOVAL OF PENDING ITEM TO WAIVE APPLICATION FEES FOR SIERRA VISTA HOLDINGS LTD.

WARD: 10

PREPARED BY AND KEY CONTACT: C. (TERRY) KITSEMETRY, RPP
PLANNER, EXTENSION #4430

SUBMITTED BY: A. BOURRIE, RPP
DIRECTOR OF PLANNING AND BUILDING SERVICES

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG.
GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH
MANAGEMENT

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

RECOMMENDED MOTION

1. That P46/11 Request for Planning Application Fees to be Waived – Sierra Vista Holdings Ltd. be removed from the Pending Item list.

PURPOSE & BACKGROUND

Report Overview

2. The purpose of this Staff Report is to request the removal of P46/11 Request for Planning Application Fees to be Waived – Sierra Vista Holdings Ltd. from the Pending Item list. On December 5, 2011, City Council adopted motion 11-G-355 (Attached as Appendix “A”) as follows:

“That Sierra Vista Holding Ltd. be required to pay the \$26,000 associated with the Planning application fees for their application related to 650 Big Bay Point Road and 63 Kell Place and staff report back to General Committee concerning the actual costs included to process the application including any difference in cost from the original application fee submitted resulting from the recent review of a previous application for the property, which may be reimbursed, notwithstanding the terms of the Fees By-law.”
3. The premise of the request by Sierra Vista Holdings Ltd. was that staff had completed a detailed review of the proposed redevelopment of the site with the previously submitted Official Plan Amendment, Rezoning and Plan of Subdivision applications. In response to this request, the Staff Memorandum to Finance and Corporate Services Committee (Nov. 17, 2011) is attached as Appendix “B” as well as the Request from Celeste Phillips on behalf of Sierra Vista Holdings Ltd. (Oct. 6, 2011) as Appendix “C”.
4. The previous applications were for a change in land use from commercial to a residential townhouse development. The applications were appealed to the Ontario Municipal Board (OMB) by Sierra Vista Holdings Ltd. due to the City not making a decision within the *Planning Act* timelines. The OMB decision dated January 6, 2011 stated, in brief, that neither Sierra Vista Holdings Ltd. nor the City, who also appeared at the OMB in support of an alternative mixed use development concept, had provided adequate evidence to justify a change in land use from commercial.

ANALYSIS

5. To proceed with non-commercial development on the site notwithstanding the OMB decision, new applications for Official Plan Amendment and Rezoning were required to be submitted under the *Planning Act*. A Plan of Subdivision application was also required to support the condominium tenure proposed by Sierra Vista Holdings Ltd. The November 2011 submission by Sierra Vista Holdings Ltd. was to request a change in land use from commercial to single detached residential on a private road.
6. With the submission of new applications, City resources and staff time were required to fulfil the *Planning Act* and policy guidelines for notification, public meeting, technical discussions and professional recommendation to General Committee. In addition, significant staff time was spent on negotiations with Sierra Vista Holding Ltd. in an attempt to meet the Council objectives expressed in the previous decision for this site, including consideration of the lands for medium density development and maintaining a 465m² (5,000 ft²) neighbourhood commercial component.
7. The Official Plan Amendment and Rezoning applications submitted by Sierra Vista Holdings Ltd. in November 2011 were approved by Council with minor modification in March 2013. Further to the approval of the development in principle, Sierra Vista Holdings Ltd. requested that the City consider an expedited Plan of Subdivision process to facilitate the sale of the subject properties.
8. Staff worked with Sierra Vista Holdings Ltd. and the new owner to expedite the Plan of Subdivision process by deferring the majority of requirements to the Site Plan Approval application. This action does not merit the waiving of fees for Plan of Subdivision as City resources and staff time were simply diverted to a subsequent process that was completed by the new owner/applicant. The Development Agreement to finalize the Site Plan process was registered on September 12, 2016.
9. Staff are confident that the Planning fees attributed to the use of City resources and staff time on this project from application submission in November 2011 to its completion in September 2016 can be fully justified without a comprehensive and detailed calculation of costs.

ENVIRONMENTAL MATTERS

10. There are no environmental matters related to the recommendation.

ALTERNATIVES

11. The following alternative is available for consideration by General Committee:

Alternative #1	General Committee could request that staff provide a detailed accounting of the cost of City resources and staff time required to facilitate the completion of this development project.
----------------	--

This alternative is not recommended as staff are confident that Planning fees associated with the use of City resources and staff time on this project from submission in November 2011, to the registration of the Development Agreement in September 2016, can be fully justified without a comprehensive and detailed calculation of costs.



FINANCIAL

12. There are no financial implications for the Corporation resulting from the proposed recommendation to remove this item from the Pending List.

LINKAGE TO 2014-2018 STRATEGIC PLAN

13. The recommendation included in this Staff Report is not specifically related to the goals identified in the 2014-2018 Strategic Plan.

APPENDIX "A" Council Direction 11-G-355 (Dec. 5, 2011)

APPENDIX "B" Memorandum to Finance and Corporate Services Committee (Nov. 17, 2011)

APPENDIX "C" Request from Celeste Phillips on behalf of Sierra Vista Holdings Ltd. (Oct. 6, 2011)

APPENDIX "A"

Council Direction 11-G-355



City Clerk's Office
COUNCIL DIRECTION MEMORANDUM

TO: Director of Finance
City Clerk
Director of Planning
Director of Legal Services

FROM: Dawn McAlpine, City Clerk

DATE APPROVED
BY COUNCIL: December 12, 2011

11-G-355 REQUEST FOR PLANNING APPLICATION FEES TO BE WAIVED - SIERRA VISTA HOLDINGS LTD.

That Sierra Vista Holdings Ltd. be required to pay the \$26,000 associated with the Planning Application fees for their application related to 650 Big Bay Point Road and 63 Kell Place and staff report back to General Committee concerning the actual costs incurred to process the application including any difference in cost from the application fee submitted resulting from the recent review of a previous application for the property, which may be reimbursed, notwithstanding the terms of the Fees By-law. (Circulation list, October 17, 2011, C19) (File: F00 and D00) (11-G-307) (FCSC November 17, 2011)

Direction:

Director of Finance – note
City Clerk – Nina – pending
Director of Planning – action
Director of Legal Services – note

APPENDIX "B"


Memorandum to Finance and Corporate Services Committee (Nov. 17, 2011)

The City of
BARRIE

Planning Services Department
**MEMORANDUM TO
FINANCE AND CORPORATE
SERVICES COMMITTEE**

TO: Finance and Corporate Services Committee
FROM: S. Naylor, MES, M.C.I.P., R.P.P., Director of Planning Services
NOTED: R. Forward, General Manager of Infrastructure & Development Services
Jon Babulic, Chief Administrative Officer
RE: Request for Planning Application Fees to be Waived – Sierra Vista Holdings Ltd.
DATE: November 17, 2011

File: D12-389,
D14-1471,
D09-OPA120



Sierra Vista Holdings Ltd. ("SVH") has requested that the Planning Application fees required in conjunction with new applications for their lands located at 650 Big Bay Point Road and 63 Kell Place be waived. The reasons in support of this request are detailed in a letter from Celeste Phillips Planning Inc. dated October 6, 2011. The purpose of this memorandum is to provide information related to how and why the City requires fees in association with Planning Applications.

Authority under The Planning Act

Section 69 (1) of *The Planning Act*, R.S.O. 1990, as amended, provides the authority for a Municipality to establish a tariff of fees for the processing of applications made in respect of planning matters. The fees are to be designed to meet only the anticipated cost to the Municipality in respect to the processing of each type of Application. The Act also provides the ability for a Municipality to reduce or waive the requirement for payment of fees where it is determined that it would be unreasonable to require such payment. Finally, the *Planning Act* also provides the opportunity for an applicant to appeal to the Ontario Municipal Board against the levying of all or a portion of the fees.

Tariff of Fees – City of Barrie

The City of Barrie has an approved tariff of fees for Planning Applications (Attachment 'A'). The amount of these fees are reviewed periodically by the Planning Department to ensure that they are appropriate and do not exceed the anticipated costs to the Municipality for processing Applications. Due to the nature of the processing of Planning Applications, the majority of costs accrued to the Municipality are directly attributable to staff time spent in processing the Application. The staff time includes clerical, technical, professional and management positions contained within the Planning Department solely. The fees do not represent a 100% cost recovery, nor do they include the time cost for non-Planning staff. In addition to staff costs, a portion of the fees are collected to offset costs accrued by the Clerks and Legal Departments related to circulation and/or advertising of Notices.

The current fees were reviewed by the Planning Department in 2009 and were implemented beginning in 2010 and remained static for 2011. A 4% increase will be introduced in 2012 to incorporate increased staff costs for 2011 and 2012.

It is important to note that the fees are based upon the anticipated costs to process an average application. Applications vary in complexity, and therefore the staff time spent on processing also varies between applications. It is impossible to determine and apply the costs on an individual application basis, which is one reason for the fees to be reviewed with some regularity to ensure that they remain current and reasonable.

The Sierra Vista request is to waive the application fees associated with three applications: Official Plan and Zoning By-law Amendment, and for Approval of a Draft Plan of Subdivision. The 2011 fees applicable for these three applications total \$26,000. In the interest of moving forward on the new



Planning Services Department
**MEMORANDUM TO
FINANCE AND CORPORATE
SERVICES COMMITTEE**

applications, the Director of Planning and SVH's agent agreed that the required application fees would be submitted to the City in conjunction with the new applications, but that the cheques would not be cashed until a decision on Sierra Vista's request has been rendered. The new applications were received by the Planning Department on November 11, 2011, and are presently being reviewed to determine completeness.

Request by Sierra Vista Holdings Ltd.

In their letter of October 6, 2011 requesting the waiving of the Planning Application fees, SVH provide their rationale as to why this request should be considered. The following is meant to clarify and address some of these points from the perspective of the Planning Department.

The letter characterizes the Ontario Municipal Board decision as having "provided little guidance as to the most appropriate land use for the subject property." The Board does not typically provide guidance as to what it feels to be the most appropriate use outside of determining whether the proposed use(s) being adjudicated are appropriate from a land use planning perspective. In the Sierra Vista Hearing, there were two separate and distinct proposals put forward by SVH and the City, neither of which was approved by the Board. The guidance to be taken from this decision was that the Official Plan designation and zoning of the property was preferred to either of the proposals that were before the Board during the Hearing.

The planning review process is completed, and the file closed, upon the rendering of a decision on a specific development proposal by Council, or the Ontario Municipal Board in the event that the application is appealed. The fees associated with applications are considered to be sufficient to offset the costs of the review process up to a decision by the City being made. In circumstances similar to Sierra Vista, where an appeal to the Ontario Municipal Board is submitted, the costs to defend Council's decision are typically borne by the Municipality. Application fees are not collected for the purpose of offsetting the anticipated costs associated of defending decisions before the Ontario Municipal Board. (For information purposes the City's costs associated with the Sierra Vista OMB Hearing was in the order of \$75,000 (\$35,000 external planning assistance and \$40,000 external legal representation)).

It is suggested by SVH that the City will not need to review the previously filed technical reports, and therefore the required fees would exceed the anticipated costs to the Municipality. Application fees are applied in accordance with the Fees By-law. Staff is unable to assess and predict the cost of processing specific applications and adjust fees on an individual application basis. There are a great number of variables associated with the planning process that cannot be predicted on a case-by-case basis.

In addition, it would not be appropriate for staff to assume that a new proposal is "less impactful" than a previous one and determine that a review of technical information is therefore unnecessary. In conducting a professional approach to assessing an application, a review of the supporting information is absolutely necessary to ensure that accurate advice and opinion can be provided to Council. Therefore review time associated with technical supporting information is a necessity for all applications.

Finally, costs associated with circulation, review and meetings, holding a public meeting and possibly other public consultation processes, provision of statutory notices under *The Planning Act*, and other associated processing related activities are required to be undertaken for all applications. The fees associated with applications are intended to offset these costs and defray the financial impact upon the general tax base.



Planning Services Department
**MEMORANDUM TO
FINANCE AND CORPORATE
SERVICES COMMITTEE**

It should also be considered that waiving of fees could be seen as precedent setting. While such decisions would be made on a case-by-case basis, cumulative impact from a number of requests for waiving of fees would have a substantial negative impact on the application processing revenues budgeted by the Planning Department on an annual basis. As staff resources and costs associated with public consultation requirements are still incurred for every application, the general tax base bears the burden of supplementing the amount of fees which are forgiven.

SN/slw

APPENDIX "C"

Letter from Celeste Phillips, dated October 6, 2011



BY ELECTRONIC MAIL

October 6, 2011

Mayor Lehman and Members of Council
c/o Ms. Dawn McAlpine
City of Barrie
70 Collier Street
Barrie, Ontario
L4M 4T5

Dear Mayor Lehman and Members of Council:

**Re: Request for Waiving of Planning Application Fees
Sierra Vista Holdings Ltd.
650 Big Bay Point Road and 63 Kell Place**

I am writing to you on behalf of Sierra Vista Holdings Ltd. regarding vacant lands located on the northwest corner of Big Bay Point Road and Hurst Drive. My client's original development application was presented to Council at a statutory public meeting held on June 1, 2009 and adjudicated by the Ontario Municipal Board at a hearing held in July 2010 with a decision rendered in January of this year. Unfortunately the OMB decision provided little guidance as to the most appropriate land use for the subject property.

Sierra Vista wishes to re-submit a revised plan which we feel will meet with the wishes of both the local residents and City Planning staff. The plan proposes 38 single detached lots (30 and 40 foot residential lots) on a common element roadway along with an area set aside for the potential development of a 5,000 square foot commercial building. By moving the entrance to the site (per staff's recommendation) opposite Edwards Drive, the commercial site would occupy a corner location. I would advise however that my clients have little confidence in the viability of the commercial site since the last six tenants have been unsuccessful in establishing a viable business at this location. As a result I will be requesting a dual zoning to permit five 30 ft. residential lots on the commercial block in the event that commercial development does not proceed within a reasonable timeframe.

Planning staff have suggested that we file new application forms. To date, over \$25,000 in application fees have been paid to the City of Barrie. New applications would require at the very least, another \$27,700.00 in planning



application fees. Although not opposed to filing new forms, on behalf of Sierra Vista Holdings Ltd., I am requesting that the application fees be waived.

According to the Planning Act, planning (or development) application fees must "meet only the anticipated cost to the municipality". Further, the Planning Act allows for the waiving of such fees. Sections 69 (1) and (2) of the Planning Act, extracted below, state as follows:

69. (1) The council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff. R.S.O. 1990, c. P.13, s.69 (1); 1996, c. 4, s. 35 (1).

(2) Despite a tariff of fees established under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff. R.S.O. 1990, c. P.13, s. 69 (2); 1996, c. 4, s. 35 (2).

We have reviewed our original applications and Sierra Vista's engineering consultant has reviewed previously filed engineering studies including a Functional Servicing / Stormwater Management Report and a Traffic Impact Study. In Ms. Tremblay's opinion (copy of letter attached), all recommendations in existing and on-file reports suffice as the revised development plan proposes less yield in terms of units and if approved, would result in less strain on municipal services including sanitary, water, storm and roads.

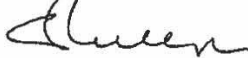
In my estimation, the revised plan represents a continuation of the same applications in that the density has been reduced per neighbourhood concerns, and both the slight shift in the access road and the provision of a commercial block respond to Planning staff's requests. As such, and given that the previously filed technical reports need not be reviewed again as part of a revised submission, it is my respectful request that new application fees be waived. In my opinion, fees in excess of \$27,000 would far exceed the



anticipated cost to the municipality to process Sierra Vista's proposed planning applications and should therefore be waived.

Thank you for your consideration of this request.

Sincerely,



Celeste Phillips, MCIP RPP

ATTACHMENTS (2)
COPY:
Sierra Vista Holdings Ltd.
Ms. M. Tremblay



Technical Memorandum

Project Name: Big Bay Point Road and Hurst Drive Development
Date: October 5, 2011
Project Number: 1051

On behalf of Sierra Vista Holdings Ltd., we have been retained to confirm the servicing requirements for the proposed Big Bay Point Road and Hurst Drive development in the City of Barrie.

As part of the original development applications, a Functional Servicing Report was prepared by Richardson Foster and dated September 2009 (revised). This report examined the servicing of the subject property in relation to water, sanitary and utility servicing, roads and grading and stormwater management. The report also analyzed the existing, projected and proposed traffic volumes along Hurst Drive to confirm overall intersection level of service and individual movement delays for the proposed site access on Hurst Drive.

The original (2008) applications considered a medium density townhouse residential land use. The revised plan proposes a reduced number of dwellings and in a single detached dwelling housing form, on a common element roadway. The Draft Plan of Condominium application information is compared as follows:

	2008 Applications	2011 Applications
Number of Units	58	43 *
Unit Type	Townhouses	Singles
Minimum Unit Lot Frontage (m)	5.8	9.2
Minimum Condominium Roadway Width (m)	6.0	6.0
Access Width (m)	11.0	11.0
Length of Road (m)	285	285
Additional Parking Provided (number of spaces)	30	-
Amenity Area Provided (m ²)	705	-
Commercial Block Included?	No	Yes

* Includes 5 lots proposed as part of a dual commercial / residential zoning block (Block 39)



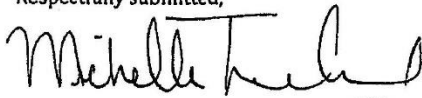
The Lance Gate Subdivision (43T-88084) design provided the basis for the September 2009 report, given the property was originally a block within this plan which was serviced as part of the overall subdivision development. The September 2009 report summarizes that servicing to the property would generally consist of the extension of existing municipal services into the subject property with an oil-grit separator for additional stormwater management to meet current *Enhanced* quality objectives and conform to the Lake Simcoe Protection Plan. Grading of the subject site would be towards Hurst Drive as it currently exists.

The September 2009 report confirmed that the development of the site as a proposed 58-unit development can be adequately serviced in accordance with the recommendations set out in the report. The 2011 applications proposed a lower lot yield (43 units as opposed to 58 units) and associated coverage which represents a lesser strain on municipal services including water, sanitary, storm and roads.

As a result of reviewing the September 2009 report (and acknowledging the undersigned's original involvement in the preparation of said report) with respect to the 2011 applications proposed, it can be confirmed that the recommendations of the September 2009 report remain applicable to the new applications for 43 units. As a result it is felt that no additional review is warranted for this proposal with respect to servicing of the subject lands.

Please contact the undersigned should you have any questions or require additional information.

Respectfully submitted,


Michelle Tremblay, P. Eng., LEED CA