

June 2, 2023

By Email to: cityclerks@barrie.ca

Mayor and Members of City Council
City of Barrie
Legislative and Court Services
70 Collier Street,
P.O. Box 400,
Barrie, Ontario L4M 4T5

Dear Mayor Nuttall and Members of City Council:

**Re: Extension of Site Plan Control Requirements for Processing
Development Charge Freeze Pursuant to s.26.2(1) of *Development Charges Act*
440 Essa Developments Inc. (One Urban Developments Inc.)
440 Essa Road, City of Barrie**

Introduction

We are legal counsel to 440 Essa Development Inc. ("**One Urban**"), the owners of the property municipally known as 440 Essa Road (the "**Subject Property**") in the City of Barrie (the "**City**" or "**Barrie**").

One Urban proposes to redevelop the Subject Property with a 9-storey mixed-use building, containing 262 purpose-built rental units, of which 39 are to be secured as affordable dwelling units, and 1,070 square metres of ground floor commercial space (the "**Development**"). To facilitate the Development, One Urban received permissions from the City by way of a zoning by-law amendment approved in June 2020 and a subsequent minor variance application approved by the Barrie Committee of Adjustment in July 2022. In June 2022, City Council adopted staff's recommendations to include the Development as part of the Barrie's Community Improvement Plan Affordable Housing and Redevelopment Grant Program (the "**CIP**"). Barrie's CIP program is used to incentivize and support development projects that achieve key planning and growth management objectives, including the development of affordable housing units, within the City.

For the reasons more specifically set out below, we are writing to City Council on an urgent basis to respectfully request a decision approving the following:

- (1) City Council approve a nine (9) month extension of the two year period referred to in section LL of the "Site Plan Control Requirements for Process" letter dated June 7, 2021 for the Site Plan Control application at 440 Essa Road (File No.: D11-027-2020).
- (2) City Council determines that the time period referred to in subsection 26.2(5) of the *Development Charges Act* begins on the date the Site Plan Agreement related

to the Site Plan Control application at 440 Essa Road (File No.: D11-027-2020) is executed by the owner and the City.

- (3) City Council instructs City staff to enter into an agreement with the owner pursuant to section 27 of the *Development Charges Act* to give effect to recommendation 2, if required, in order to secure the development charge rates applicable to the development at 440 Essa Road as determined by subsections 26.2(1) of the *Development Charges Act* in relation to the Site Plan Control application submitted on December 23, 2020.

These matters are urgent and require the attention of City Council at its meeting scheduled on June 7, 2023, as a result of recent information received by City staff and the impending expiration of the two year period related to the "Site Plan Control Requirements for Processing" letter on June 7, 2023.

Extension of Site Plan Control Requirements for Processing Deadline

One Urban is currently in the final stages of the Site Plan Control application process with City staff (Municipal File No.: D11-027-2020) (the "**Site Plan Application**"), and intends to seek building permits to proceed with the Development shortly after approval of that application is received.

Following their first Site Plan Application submission, on June 7, 2021, One Urban received from Tiffany Thompson, the Manager of Growth and Development, a document titled "Site Plan Control Requirements for Processing" (the "**Requirements for Processing Letter**")¹. The Requirements for Processing Letter provided comments on the Site Plan Application, as well as a series conditions and requested revisions to the plans and drawings submitted as part of the application. The Requirements for Processing Letter provided that One Urban was also required to enter into a Site Plan Agreement, following certain revisions to the plans and drawings and other conditions being satisfied and/or addressed.

Section LL of the Requirements for Processing Letter states as follows:

- LL. The Site Plan Control Requirements shall remain in effect for a period of two (2) years from the date referenced below following which a subsequent application may be required.

The two year period referenced in section LL will expire on June 7, 2023.

On April 24, 2023, One Urban submitted an application to the City to extend the two year deadline set out in the Requirements for Processing Letter by one year (the "**Site Plan Control Extension Application**")². As part of the Site Plan Control Extension Application, One Urban also paid the related extension fee of \$2,919.85.

Notwithstanding having submitted the Site Plan Control Extension Application well in advance of the June 7, 2023 deadline, One Urban's application has not been advanced by staff, and no

¹ Included as Attachment 1 to this correspondence.

² Included as Attachment 2 to this correspondence.

determination on the extension request has been made. The impending expiration of the Requirements for Processing Letter requires an urgent determination by the City on One Urban's Site Plan Control Extension Request Application. The June 7, 2023 City Council meeting represents the last opportunity for the City to approve One Urban's extension request prior to the expiration of the two year deadline on that same day.

As a result of the above, we respectfully request that City Council approve recommendation 1, above, and extend the two year expiration period in section LL of the Requirements for Processing Letter by nine months to allow One Urban to receive approval of its Site Plan Application by the City.

Confirmation of Development Charge Rate "Freeze" Pursuant to s.26.2 of DCA

Pursuant to subsection 26.2(1) of the *Development Charges Act* (the "DCA" or "Act"), the development charge rates applicable to the Development are "frozen" at the time One Urban's Site Plan Application was made, being December 23, 2020.

Pursuant to subsection 26.2(5) of the DCA, that frozen development charge rate is applicable up to two (2) years from the date One Urban's Site Plan Control application is approved by the City.

The Requirements for Processing Letter states the following:

"The appointed officer hereby grants Preliminary Approval to Site Plan Application File **D11-027-2020** located at Part Lot 5 Concession 13 known municipally as **440 Essa Road** on lands owned by **440 Essa Developments Inc.** upon registration of the development agreement for the above noted property to be prepared and completed in accordance with the following requirements: ..." [underlining added]

It is clear from this provision that "Preliminary Approval" of the Site Plan Application occurs "upon" registration of the Site Plan Agreement. The Requirements for Processing Letter further states under the section titled "Conditions" that the revisions and conditions to the site plan drawings listed in the letter are required "[p]rior to the appointed officer recommending that the City Clerk execute the Site Plan Agreement".

As a result, the approval date for the purpose of the timeframe set out in subsection 26.2(5) of the DCA described above begins once One Urban has satisfied the City's requested revisions and conditions set out in the Requirements for Processing Letter and the Site Plan Agreement has been executed by the One Urban and the City.

Notwithstanding numerous previous discussions with City staff confirming the applicability of section 26.2 of the DCA to the Development, One Urban was only recently advised on May 30, 2023, that staff have determined the date of the Requirements for Processing Letter to be the "approval" date for the purpose of the timeframe in subsection 26.2(5) of the DCA. According to this interpretation, the two year period would expire on June 7, 2023.

One Urban is surprised by City staff's unfounded position and strongly disagrees with this recently conveyed interpretation of subsection 26.2(5) of the DCA. As noted above, the Requirements for Processing Letter itself clearly notes that "Preliminary Approval" can only occur once all the revisions and conditions to the site plan drawings set out in the letter are satisfied, and the Site

Plan Agreement is executed. One Urban is still in the process of making a new resubmission that further amends the site plan drawings based on comments and requests for revisions from City staff. In addition, no Site Plan Agreement has yet been entered into between One Urban and the City. Again, this is through no lack of effort from One Urban, who submitted the City's required application requesting a Site Plan Agreement on March 17, 2023 and paid the requisite fee to the City of \$4,000.00 to allow staff to proceed with the agreement, and have still not received a draft agreement from the City.

Finally, the City's own "Site Plan Application Manual" document by the Planning Services Department (the "**SPA Manual**"), which outlines the Site Plan application and approval process, similarly clearly demonstrates that approval of the Site Plan Application is not determined to occur until after the satisfaction of all revisions and conditions listed in the Requirements for Processing Letter and the execution of the Site Plan Agreement. An excerpt of the approval process chart, provided in section 2.5 of the SPA Manual, is included as **Attachment 3** to this correspondence, and clearly shows that "Site Plan Approval Completed" only occurs after the aforementioned steps have already taken place.

As a result of City staff's position conflating the Site Plan Application "approval" date with the date of the Requirements for Processing Letter, One Urban requires an urgent determination by City Council of the proper time period for the development charge rate as intended by subsection 26.2(5) of the DCA. In addition, in order to ensure that the proper development charge rate is applied to One Urban's rental and affordable housing Development, One Urban is also requesting City Council direct staff to enter into an agreement with One Urban under section 27 of the DCA to secure the "frozen" development charge rate as of the date the Site Plan Application was submitted on December 23, 2020, if required.

Therefore, for the reasons set out above, we respectfully request City Council approve recommendations 2 and 3, above, to ensure that the appropriate development charge rate applicable to One Urban's rental and affordable housing Development is properly applied pursuant to section 26.2 of the DCA.

Conclusion

One Urban's Development at 440 Essa Road represents a unique opportunity to provide new, high-quality purpose-built rental units and affordable housing to its surrounding community and the City of Barrie as a whole. One Urban has consistently acted diligently to advance this application, and has worked collaboratively with the City and City staff in trying to obtaining its outstanding Site Plan Application approval and to proceed with construction of the Development in the near future.

The impending deadline of June 7, 2023 for the expiration of the Requirements for Processing Letter, and the failure of City staff to advance One Urban's request for extension, puts in jeopardy the efforts and hard work of One Urban to have its Site Plan Application approved. Furthermore, the very recent interpretation of City staff regarding the applicable time period related to the development charge rate calculated pursuant to section 26.2 of the DCA misinterprets the date of Site Plan Application "approval" and has the potential to significantly impede the viability of this rental and affordable housing Development.

Therefore, One Urban respectfully asks City Council to address these significant issues on an urgent basis at its meeting on June 7, 2023, by approving the recommendations provided above.

We wish to thank City Council in advance for considering these matters and recommendations. Should City Council have any questions on these matters, One Urban will make itself or one of its representatives available at the June 7, 2023 meeting to respond.

Yours truly,

AIRD & BERLIS LLP

Alexander J Suriano

Alexander J. Suriano
Partner

Cc: Clients
Matthew Di Vona, Di Vona Law
Marc Villeneuve, Supervisor of Development Charges, Finance Department, City of
Barrie
Michelle Banfield, Director of Planning Services, City of Barrie
Andrew Gameiro, Senior Planner, Development Services Department, City of Barrie
Nicole Myers, Development Charges Administrator, Finance, City of Barrie
Christopher Packham, Legal Counsel, City of Barrie

ATTACHMENT 1 - REQUIREMENTS FOR PROCESSING LETTER

File: D11-027-2020 – 440 Essa Road, Barrie

SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Section 41(13) b of the *Planning Act* allows Council to delegate by By-law Council's authority to approve site plans to an appointed officer of the Municipality.

Council By-law 99-312, as amended, has delegated Site Plan Approval authority to the Director of Development Services, Manager of Growth and Development and Manager of Strategic Initiatives, Policy and Analysis. This authority permits the appointed officer(s) to recommend that the City Clerk prepare site plan agreements for execution and registration on title.

The appointed officer hereby grants Preliminary Approval to Site Plan Application File **D11-027-2020** located at Part Lot 5 Concession 13 known municipally as **440 Essa Road** on lands owned by **440 Essa Developments Inc.** upon registration of the development agreement for the above noted property to be prepared and completed in accordance with the following requirements:

This approval shall relate to the following plans as amended, if necessary:

	<u>Designer/Architect</u>	<u>Plan No.</u>	<u>Date/Rev.</u>
a) Development Statistics	Studio JCI	A0.00	Dec 21, 2020/Rev.0
b) Context Plan	Studio JCI	A1.00	Dec 21, 2020/Rev.0
c) Site Plan	Studio JCI	A1.01	Dec 21, 2020/Rev.0
d) Ground Floor Site Plan	Studio JCI	A1.02	Dec 21, 2020/Rev.0
e) P2 & P1 Level Floor Plans	Studio JCI	A3.00	Dec 21, 2020/Rev.0
f) G.F. & 2 nd Floor Plans	Studio JCI	A3.01	Dec 21, 2020/Rev.0
g) 3 rd & 4 th Floor Plans	Studio JCI	A3.02	Dec 21, 2020/Rev.0
h) 5 th & 6 th Floor Plans	Studio JCI	A3.03	Dec 21, 2020/Rev.0
i) 7 th & 8 th Floors Plans	Studio JCI	A3.04	Dec 21, 2020/Rev.0
j) Roof Plan	Studio JCI	A3.05	Dec 21, 2020/Rev.0
k) North & South Elevations	Studio JCI	A5.00	Dec 21, 2020/Rev.0
l) East & West Elevations	Studio JCI	A5.01	Dec 21, 2020/Rev.0
m) Detail Elevation	Studio JCI	A5.02	Dec 21, 2020/Rev.0
n) Building Section	Studio JCI	A6.00	Dec 21, 2020/Rev.0
o) Building Section B	Studio JCI	A6.01	Dec 21, 2020/Rev.0
p) 3D Views	Studio JCI	A10.0	Dec 21, 2020/Rev.0
q) Landscape Plan	Studio TLA	LP-100	Dec 21, 2020/Rev.0
r) Planting Plan	Studio TLA	LP-101	Dec 21, 2020/Rev.0
s) Amenity Landscape Plan	Studio TLA	LP-102	Dec 21, 2020/Rev.0

t) Landscape Details	Studio TLA	LD-100	Dec 21, 2020/Rev.0
u) General Site Servicing Plan	Crozier Consulting Engineers	101	Dec 22, 2020/Rev.1
v) General Grading Plan	Crozier Consulting Engineers	102	Dec 22, 2020/Rev.1
w) Removals and Erosion & Sediment Control Plan	Crozier Consulting Engineers	103	Dec 22, 2020/Rev.1
x) Construction Notes and Standard Details	Crozier Consulting Engineers	104	Dec 22, 2020/Rev.1
y) Pavement Marking and Signage Plan	Crozier Consulting Engineers	105	Dec 22, 2020/Rev.1

A conditional permit for footings and foundation(s) under Subsection 8(3) of the *Building Code Act*, may be considered on its individual merits prior to the registration of a development agreement provided that in addition to the requirements under the Ontario Building Code the Owner shall:

- agree in writing to satisfactorily address all conditions listed below;
- provide all required securities;
- provide all required administration fees, payment of costs associated with the preparation of a development agreement;
- provide a clearance letter or permit from the applicable conservation authority if required;
- comply with zoning by-law requirements;
- pay all applicable fees (i.e. building permit, cash in lieu of parkland, City of Barrie Act, development charges).

In addition to the above, pre-servicing of the site may be considered on its individual merits prior to the registration of a development agreement, provided that the Owner/Applicant enters into a Pre-Servicing Agreement with the City.

CONDITIONS

Prior to the appointed officer recommending that the City Clerk execute the Site Plan Agreement, the following requirements shall be satisfied and/or addressed:

Revisions

A. That the plans be amended to reflect the following as attached:

- That the site plan drawings be amended as necessary to conform to the Development Services Department's (Planning Branch) technical requirements and current standards as identified in their comments, dated February 9, 2021 (Zoning comments included).
- That the site plan drawings be amended as necessary to conform to the Development Services Department's (Planning Branch – Urban Design) current standards and guidelines as identified in their comments, dated February 5, 2021.
- That the site plan drawings be amended as necessary to conform to the Development Services Department's (Approvals Branch) technical requirements and current standards as identified in their comments, dated February 8, 2021.

- iv) That the site plan drawings be amended as necessary to conform to the Development Services Department's (Transportation Planning Branch) technical requirements and current standards as identified in their comments, dated February 8, 2021.
- v) That the site plan drawings be amended as necessary to conform to the Building Services Department's technical requirements and current standards as identified in their comments, dated February 5, 2021.
- vi) That the site plan drawings be amended as necessary to conform to the Business Performance and Environmental Sustainability Department's (Risk Management Official) technical requirements and current standards as identified in their comments, dated February 1, 2021.
- vii) That the site plan drawings be amended as necessary to conform to the Infrastructure Services Department's (Water Operations Branch) technical requirements and current standards as identified in their comments, dated January 8, 2021.
- viii) That the site plan drawings be amended as necessary to conform to the Lake Simcoe Region Conservation Authority's technical requirements and current standards as identified in their comments, dated January 22, 2021.

Development Services - Approvals

- B. If applicable, the Owner/Applicant will be required to submit a draft reference plan to reflect any required road widenings and/or daylighting triangles, and environmental protection lands to be conveyed to the City of Barrie.
- C. The Owner/Applicant will be required to provide the following drawings in accordance with the City of Barrie's Site Plan Application Manual and Urban Design Manual:
 - i) Separate site servicing drawing and site grading drawing;
 - ii) Storm drainage catchment drawing (identify/accommodation any external drainage);
 - iii) Sediment and erosion control drawing;
 - iv) Signage and pavement marking drawing in accordance with the Ontario Traffic Manuals. This drawing shall be detailed for use by the paint marking and signage contractor and shall include a legend, details, dimensions and material specifications; and
 - v) Detail and general notes drawing.
- D. The Owner/Applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of water and sanitary servicing for the proposed development, all to an appropriate connection/outlet. Detailed water servicing requirements are available through Development Services (Approvals).
- E. The Owner/Applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of the storm servicing works including parking lot construction and grading, all to the satisfaction of Development Services (Approvals).
- F. The Owner/Applicant will be required to retain a licensed experienced civil consulting engineer to provide a detailed Stormwater Management Report. The consultant will also be required to obtain, if necessary, Ministry of Environment, Conservation, and Parks (previously Ministry of Environment and Climate Change) approvals for the implementation of any stormwater management works on-site, all to the satisfaction of Development Services (Approvals).

- G. Before any site alteration within the subject property, the Owner/Applicant or his agents will apply for a Site Alteration Permit, as described within By-law 2014-100. Prior to the commencement of any works within the site, all requirements, obligations, and control measures, as described within By-law 2014-100 will be in place and undertaken to the satisfaction of the City of Barrie. Furthermore, it will be the Owner/Applicant's responsibility, through his professional consultant to maintain the said work for the duration of the subject property.
- H. The water distribution system within the limits of this site plan is privately owned and shall be maintained by the Owner/Applicant, and any hydrant installed on-site shall be deemed privately owned. All hydrants have to be maintained as per fire code/insurance requirements.
- I. The Owner/Applicant will be responsible for obtaining a Right-of-Way Activity Permit prior to the commencement of work on the municipal right-of-way.
- J. That the drawings be revised as necessary to reflect the Digital Data Control Requirements. That the drawings be processed in digital format using UTM (Zone 17) NAD83 datum (76 adjustments).

Transportation Planning

- K. That the Owner/Applicant shall submit a construction staging plan as it relates to the parking of trades people, delivery of construction material, impacts to existing on-street parking, maintenance of adjacent property access, pedestrian movements, and City infrastructure.
- L. That an Electrical Site Plan be submitted and the Owner/Applicant agrees and understands that all site lighting shall be arranged to deflect light away from adjoining properties and adjoining streets, and which will require full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting. Shielded shall mean that 100% of the lumens emitted from the light fixture are projected below an imaginary horizontal plane passing through the highest point on the fixture from which light is emitted; all to the satisfaction of the Department Services Department.

Alectra Utilities Corporation

- M. That the Owner/Applicant shall comply with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document. In this regard, the Owner shall submit an application for hydro service, receive approval from and execute an Offer to Connect agreement with Alectra Utilities Corporation prior to the commencement of construction. In the case where a transformer is required, any revisions to the site plan that are required as a result of relocating an Alectra owned transformer and high voltage underground service, may be subject to a Site Plan Amendment application.

Bell Canada

- N. The Owner/Applicant shall agree to grant Bell Canada, any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner/Applicant shall be responsible for the relocation of such facilities or easements.

Development Services – Parks Planning

- O. The Owner/Applicant will be required to retain a qualified Landscape Architect (and Arborist as applicable) to provide the design, inspection and certification of all landscape works, all to the satisfaction of Parks Planning.
- P. That the Owner/Applicant submit an Inventory/Assessment by a qualified consultant (or Arborist as applicable), of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and details to be approved and coordinated with the application for a Site Alteration Permit, and or Grading Plan submissions, all to the satisfaction of Parks Planning.

- Q. That the landscape plans be amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual, all to the satisfaction of Parks Planning.

Financial

- R. That the Owner/Applicant pay the required cash deposits, securities and administration fees associated with site plan development for the following:
- i) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for appropriate works (such as drainage, servicing, grading and landscaping) within the boundaries of the site plan, equal to 50% of the value of those works (to a maximum of \$500,000 and a minimum of \$10,000.00) to the satisfaction of the Development Services Department;
 - ii) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for municipal works (such as roads and servicing) outside of the site plan boundary, equal to 100% of the value of works to the satisfaction of the Development Services Department;
 - iii) Proof of the Owner's general comprehensive liability insurance policy in the amount of \$5,000,000.00 naming the City of Barrie as an additional insured;
 - iv) Administration fees for the review and inspection of site servicing and landscaping works equal to 5% of the estimated cost of site servicing (minimum \$1,000.00) and 5% for landscaping (minimum \$500.00) plus applicable taxes;
 - v) Any water service charges arising out of, or attributable to the development of the site plan including tapping fee and water meter payment;
 - vi) Cash deposit for road clean up associated with the site construction (\$2,000.00 refundable deposit made payable to the City of Barrie);
 - vii) A retainer in the amount of \$4,000.00 payable to Legal Services Department, City of Barrie, for legal and administration fees associated with the preparation and registration of the site plan agreement (additional fees may be required);
 - viii) Administration fees of \$1,875.00 associated with the City of Barrie Development Services Department.
- S. In accordance with Cash-in-Lieu of Parkland By-law 2017-073, the Owner shall pay cash-in-lieu of parkland prior to the issuance of full Site Plan Approval.

Building Services

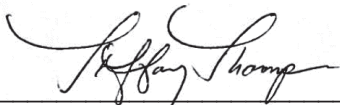
- T. That the fire access route conforms to the Ontario Building Code and that the Owner/Applicant enters into a fire route agreement, if required.

Development Services - Planning

- U. As per *Ontario Regulation 153/04*, a Record of Site Condition (RSC) must be filed prior to changing to a more sensitive property use.
- V. If applicable, the Owner/Applicant shall submit shoring and tieback plans to the City for review and approval to ensure that there are no impacts to municipal infrastructure. In this regard, the Owner/Applicant is responsible for entering into private agreements, if required, with private landowners to address any potential encroachments into adjacent lands.

- W. If applicable, the Owner/Applicant shall submit a Crane Swing Plan to the City for review and approval to identify encroachments into the municipal right-of-way and/or municipally owned lands.
- X. If applicable, the Owner/Applicant shall be exempt from subsection 9(2) of the *Condominium Act* and the provisions of Section 51, 51.1 and 51.2 of the *Planning Act* and that the conditions of Site Plan Approval shall serve as conditions for the proposed condominium development subject to:
- i) All associated costs for processing the condominium review and agreement preparation and registration shall be borne by the Owner/Applicant;
 - ii) That the Director of Legal Services be satisfied with the Condominium Disclosure Package (declaration and description) prior to condominium registration with all legal and associated fees to be borne by the Owner/Applicant.
 - iii) That the Owner/Applicant shall ensure that all agreements of purchase and sale dealing with the sale of the lands or any portion thereof including all individual condominium units, contain a clause to be registered on title advising future owners that the proposed garbage collection system shall be by way of private operation and not by municipal pickup.
- Y. That any private streets/driveways be named and units be numbered to the satisfaction of the City if and as required.
- Z. That the Owner/Applicant be responsible for the preparation and posting of any and all private street/driveway signs in accordance with current City standards. In this regard, the Owner/Applicant shall ensure that private street signs will display the street name and include the word 'Private' below the street name for clarity and that all costs associated with the installation and maintenance of private street name signs shall be the responsibility of the Owner.
- AA. That the Owner/Applicant agrees that the construction of the building(s) shall be in conformance with the approved, registered site plans as it relates to the building design, construction materials and quality.
- BB. That all sign locations be identified on the plans and details be provided and be in compliance with the City of Barrie Sign By-law 2018-029.
- CC. That the Owner/Agent ensure that all plans are consistent throughout.
- DD. That the plans conform to all provisions of the City's Comprehensive Zoning By-law or approval by the Committee of Adjustment for any variances be granted.
- EE. That the Owner/Applicant agrees to the dedication of, or cash-in-lieu payment of parkland in accordance with the *Planning Act*, if applicable, in a manner satisfactory to the Finance Department and the Development Services Department.
- FF. That the Owner/Applicant be responsible for obtaining the necessary approvals from any other applicable agency, if and as may be required.
- GG. That the Owner/Applicant agrees and understands that all garbage and recycling containers are to be kept inside the building(s) in an appropriate garbage room or externally within an enclosure (fully enclosed with roof and roll up door) constructed of materials similar to that of the main building and screened from public view, otherwise the City shall act as the Owner's agent and will have the containers removed at the Owner's expense.
- HH. That the Owner/Applicant shall be responsible for demonstrating that the proposed development meet's the City's waste collection requirements and standards, should municipal waste collection be proposed for residential units on the subject property.

- II. That all roof top mechanical devices be identified on the plans and shall be screened from public view by way of roof top location or by way of a parapet building extension to the satisfaction of the Development Services Department.
- JJ. That prior to the registration of the Site Plan Agreement, the Owner/Applicant shall provide written confirmation that all conditions of Alectra Utilities, Bell Canada, the Lake Simcoe Region Conservation Authority (LSRCA), the Development Services Department (Approvals, Parks Planning, Transportation Planning, Urban Design and Planning Sections), Business Performance and Environmental Sustainability Department (Risk Management Official), Infrastructure Services Department's (Water Operations Branch), Fire and Emergency Services, and the Building Services Department have been completed to their satisfaction.
- KK. All final plans must be identified on the Site Plan Application Release form with signatures by the respective Departments and Agencies to confirm acceptance of all final plans. Three (3) full size prints of the final plan package, stamped and signed by the associated professional consultant, and a digital copy (high quality PDF without security settings) are to be provided to Development Services (Planning) prior to registration of the Site Plan Agreement. The Final Plan package forms a Schedule in the Site Plan Agreement.
- LL. The Site Plan Control Requirements shall remain in effect for a period of two (2) years from the date referenced below following which a subsequent application may be required.
- MM. That if a building permit is not issued within three (3) years of this approval, this Preliminary Approval shall become null and void.
- NN. That the Owner provide a letter or provide signature below, agreeing to the above Site Plan Control Requirements prior to any building permits, conditional or otherwise, being considered.



Tiffany Thompson, MCIP, RPP
Manager of Growth and Development

June 7, 2021

Date

Owner acceptance and agreement with the SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Please sign, date and return to the City of Barrie Development Services Department.

Owner's Signature

Date

ATTACHMENT 2 - SITE PLAN CONTROL EXTENSION APPLICATION

Revised April 1, 2023



Extension of Site Plan Control Approval
D11-027-2020

OFFICE USE ONLY

FILE: _____

FEE: _____

DATE: _____

SITE PLAN CONTROL APPROVAL APPLICATION

APPLICATION INFORMATION

1. Name of Applicant 440 Essa Developments Inc. c/o Nick Stillo Tel. No. Cell: 416-991-9814
Address 28 Rivalda Road, Toronto, ON Postal Code M9M 2M3
Email Address nstillo@oneurban.ca Fax No. 416-741-4777
2. Agent, Solicitor or Consultant The Jones Consulting Ltd. c/o Ray Duhamel Tel. No. 705-734-2538 x226
Address Unit 1 - 229 Mapleview Drive East, Barrie, ON Postal Code L4N 0W5
Email Address rduhamel@jonesconsulting.com Fax No. 705-734-1056
3. Registered Owner Same as owner. Tel. No. _____
Address _____ Postal Code _____
Email Address _____ Fax No. _____
4. Legal Names of All Encumbrances of Property None Tel. No. _____
_____ Postal Code _____
_____ Fax No. _____
5. All Correspondence Direct to: Owner: ☒ Agent: ☒

PLEASE INCLUDE THE FOLLOWING ITEMS, COMPLETED AND SIGNED BY THE OWNER OF THE PROPERTY:

- ☐ Cost Recovery Agreement (Schedule A)
- ☐ Owner Authorization (Schedule B)

Personal information contained on this form is collected under the authority of the Planning Act, c.P.13, s.4(1), as amended and the Corporation of the City of Barrie's Resolution 93-P-248 and will be used in processing this application. Information regarding the estimated/anticipated selling/rental price will be treated as confidential. Questions regarding this collection should be directed to: Development Services Department, City of Barrie, 70 Collier Street, P.O. Box 400, Barrie, Ontario, L4M 4T5, (705) 726-4242 or planneroftheday@barrie.ca.

B) PROPERTY DESCRIPTION

1. Legal Description Lot _____ Registered Plan No. _____
Lot Part Lot 5 Concession 13 Township Innisfil
PIN (Property Identification Number) 58916-0165
2. Municipal Address 440 Essa Road
3. Current Property Value \$4,300,000.00
- To be used in calculation of parkland dedication (Properties valued over one million may require a property appraisal to determine the value).
4. Please supply the Pre-consultation file number if the site has been reviewed through Pre-Consultation.
D28- 015-19 for Zoning By-law Amendment (D14-1687)

C) PROPOSED DEVELOPMENT/REDEVELOPMENT

- Building
1. Existing Gross Residential 0 m² Proposed Gross Residential 16,930 m²
Commercial 0 m² Commercial 926 m²
Industrial _____ m² Industrial _____ m²
Institutional _____ m² Institutional _____ m²
Size of Property 5,011.0 m²
2. Number of Dwelling Units Existing 0 Proposed 262
3. Brief Description of Proposal Preliminary SP approval Granted June 7, 2021. Extension requested for 2 years.
Site Plan Control application for a mixed-use building with a height of 9 storeys, 262 purpose-built rental units and 926 square metres of ground floor commercial space.
4. Please specify the proposed tenure of ownership Rental
5. Are you requesting an exemption under subsection 9(2) of the Condominium Act? Yes ☐ No ☒
If YES, please attach the required "Application for Plan of Condominium Approval or Exemption" and requisite fee.
6. List any amendments, exception of variances from City By-law and Regulations which may have been or will be applied for (date, application number and pertinent details).
7. Is the subject property partially or wholly within an area regulated by the Lake Simcoe Region Conservation Authority (LSRCA) or the Nottawasaga Conservation Authority (NVCA)? Yes ☐ No ☒

This is to be confirmed by the City of Barrie prior to application submission. If yes, all applicable Conservation Authority Fees will apply.

Conservation Authority approval is required prior to registration of the site plan agreement and issuance of a building permit.

NOTE:

1. Please submit the completed application form, owner authorization, and Cost Recovery Agreement **IN DUPLICATE** to the Development Services Department, together with the required fee. Cheques are to be made payable to The Corporation of the City of Barrie.

FEES:

Payment of application fees can be made by Cash, Cheque or Debit only.

- a) Commercial, Institutional, Industrial and Multi-Residential development

Up to 5,000m ²	\$ 9,958.03
5,001 to 20,000m ²	\$ 12,848.50
20,001 to 35,000m ²	\$ 15,357.10
Greater than 35,000m ²	\$ 17,889.20

- b) Extension of Site Plan Control \$ 2,919.85/year

- c) Revision to existing registered site plan agreement \$ 3,906.83

- d) Conservation Authority Fees

*Lake Simcoe Regional
Conservation Authority
(LSRCA)*

Prior to deeming the application complete, the Applicant is required to contact the LSRCA to confirm and pay all applicable site plan review fees. All fees are to be paid directly to the LSRCA with confirmation provided to the City of Barrie.

*Nottawasaga Conservation
Authority (NVCA)*

Prior to deeming the application complete, the Applicant is required to contact the NVCA to confirm and pay all applicable site plan review fees. All fees are to be paid directly to the NVCA with confirmation provided to the City of Barrie.

2. The following information may be required for buildings over **THREE STOREYS**:
 - a) Sun and Shadow Calculations
 - b) Wind Effects on Council's Request
 - c) Any Detriment to City Parks or Beaches
3. Please make sure a **COMPLETE** application is submitted to avoid delays in registering the required site plan agreement. **A MYLAR** and four white paper copies of each final plan that includes all revisions will be required for registration. Please ensure that **ALL INFORMATION** on Mylar is clearly legible otherwise delays will result in registering the site plan agreement. The final mylars are subject to the approval of the Development Services Department
4. Signs erected on the property are to be removed two weeks following the Site Plan Review Technical Committee meeting.

Urban Design Manual and Site Plan Application Manual are available through the Legislative & Court Services' Office or on the City's website at www.barrie.ca

SCHEDULE A
COST RECOVERY AGREEMENT
LEGAL DESCRIPTION
AND
MUNICIPAL ADDRESS

Legal Description: Part of Lot 5, Concession 13, former Geographic Township of Innisfil,
now in the City of Barrie, County of Simcoe.

Municipal Address: 440 Essa Road, City of Barrie.

This Agreement made this 21st day of April, 2023.

COST RECOVERY AGREEMENT

BETWEEN:

440 Essa Developments Inc.

(hereinafter referred to as "the Applicant")

AND

THE CORPORATION OF THE CITY OF BARRIE

(hereinafter referred to as "the Corporation")

WHEREAS the Applicant has made application to the Corporation for planning approval necessary to develop the lands described in Schedule "A" (the "Lands");

AND WHEREAS the Applicant is the owner of the lands or has the consent of the owner of such lands to make such application;

AND WHEREAS it may be necessary to investigate and resolve planning, engineering, legal and/or other issues;

AND WHEREAS the Corporation may, at its sole discretion, find it necessary to engage professional planning, engineering, legal and other services in reviewing the application;

NOW THEREFORE in consideration of the sum of \$5 paid by the Corporation to the Applicant and in further consideration of the Corporation reviewing such application and incurring costs in so doing (the sufficiency of which is acknowledged by the Applicant), the parties agree as follows:

1. This agreement shall not be construed as the Corporation's acceptance or approval of the application.
2. The Corporation agrees to review the application and may retain such additional planning, engineering, environmental, legal and/or other consultants as are deemed necessary by the Corporation to thoroughly evaluate the application. Save and except for the legal services retainer disclosed in Paragraph 3 below, prior to retaining such additional consultants, prior to retaining such consultants, the Corporation shall advise the Applicant of its intention to do so and shall advise the Applicant as to the proposed purpose for such retainer, the proposed consultant, the proposed terms of reference and the proposed estimated costs. The Applicant may make submissions to the Corporation with respect to the foregoing information within 7 days of receipt of same. The Corporation shall consider such submissions in good faith, but shall retain its sole discretion with respect to such retainer. The Applicant shall be entitled to the provision of final reports submitted by such consultants but not to drafts, or communications which would otherwise be privileged. The Applicant agrees that with respect to legal consultants all such work shall be solicitor-client privilege to which it has no access.

3. The Corporation hereby notifies the Applicant that it intends to retain Barrie's Solicitor to provide legal services relating to the preparation and execution of an agreement contemplated by the Planning Act.
4. The Applicant shall pay all reasonable costs specific to the application as incurred by the Corporation for its solicitor (on a complete indemnity basis) and other consultants and its administrative costs (application fees authorized pursuant to the Corporation's Fees By-law) as amended from time to time prior to the date of this agreement in respect of the application, including interest on arrears if incurred as the result of delay in payment by the Applicant. Notwithstanding the foregoing, in the event proceedings are commenced by the Applicant or the Corporation with respect to the application which results in the Applicant and the Corporation advocating positions which are opposed in interest, the Corporation shall not be entitled to collect such costs or recover expenses from the Applicant in connection therewith from the date of commencement unless so ordered by the tribunal or adjudicator determining the outcome of such proceedings.
5. The Applicant shall, upon being notified from time to time, deposit sufficient funds with the City to cover the estimated expenses including all consulting fees and disbursements. In default of such deposits being made, the Corporation may refuse to continue to process the application, refuse to execute any agreement required as a condition of development approval or take such legal action against the Applicant as it deems necessary.
6. The Corporation upon completion, termination, withdrawal of the application, or the filing of proceedings being commenced as contemplated in paragraph 4 above whereby the Applicant and the Corporation are advocating positions which are opposed in interest, shall prepare and submit a final statement of account to the Applicant, including copies of all invoices submitted to it by its consultants. Surplus funds held by the Corporation shall be returned to the Applicant within sixty (60) days of such completion, termination or withdrawal. Surplus funds shall not be returned to any mortgagee or subsequent owner of the property referred to in the application except on the written direction of the Applicant or pursuant to a Court Order.
7. This Agreement shall not stand in lieu of or prejudice the rights of the Corporation to require such further and other agreements permitted by provincial or federal legislation in respect of any application that the Corporation may deem necessary.
8. This Agreement constitutes the entire agreement of the parties to date with respect to the payment of the Corporation's costs for professional planning, engineering, legal and other services required in consideration of the application. Any subsequent agreement which includes a provision relating to costs incurred by the Corporation shall be deemed to be supplementary to this agreement and shall not supersede this agreement.
9. This Agreement shall be effective from the earlier of the date of this agreement and the date the application referred to herein was submitted to the Corporation.
10. The persons signing this Agreement on behalf of the parties warrant that each person who signs this Agreement is authorized to represent that party and to bind it in this Agreement.
11. This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.
12. Should any provision or any part of any provision of this Agreement be declared null, void or inoperative, the remainder of the Agreement shall remain in full force and effect and shall be interpreted as a complete entity.
13. The Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

14. Any notice required pursuant to this Agreement shall be in writing and delivered personally, by confirmed facsimile transmissions ("fax") or sent by registered mail to the following addresses:

The Applicant: 440 Essa Developments Inc.

Mailing address:

28 Rivalda Road, Toronto, ON M9M 2M3

Delivery address:

Same as mailing address.

Fax number: N/A

Attention: Nick Stillo

The Corporation:

The Corporation of the City of Barrie
Legislative & Court Services
Attention: Wendy Cooke, City Clerk
70 Collier Street, Box 400
Barrie, ON L4M 4T5 (Phone) (705) 726-4242 - (Fax) (705) 739-4243

or to such other addresses either of the Parties may indicate in writing to the other.

Any notice given in accordance with this shall be deemed to have been received:

- i) upon delivery, if delivered personally;
- ii) at the time of transmission if sent by fax between 9:00 a.m. and 4:00 p.m. EST, or, if sent before or after such times, on the next business day; or
- iii) on the fifth day after posting, if sent by registered mail, provided that if such day is a Saturday, Sunday or holiday, on the next business day thereafter.

APPLICANT

Per:  c/s

Name: Nick Stillo
Title: Principal, COO

Per: _____ c/s

Name:
Title:

**THE CORPORATION OF
THE CITY OF BARRIE**

Per: _____
Wendy Cooke, City Clerk
I have authority to bind the
Corporation

I/We have authority to bind the corporation.



SCHEDULE B

Owner Authorization - Planning Applications (Property Owner Consent Form)

I, Nick Stillo	<input type="checkbox"/> Property Owner	<input checked="" type="checkbox"/> Delegated Official with Signing Authority
First Name / Last Name	(Select one)	
440 Essa Developments Inc.		
Company Name (if applicable)		
of, 28 Rivalda Road, Toronto, ON, M9M 2M3		
Street Address	Unit #	City or Town Province Postal Code
Telephone No. 416-991-9814	Email	nstillo@oneurban.ca

hereby give permission to:

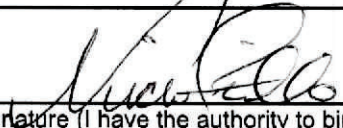
Applicant - First Name / Last Name
Company Name (if applicable)

Ray Duhamel
Authorized Agent - First Name / Last Name
The Jones Consulting Group Ltd.
Company Name (if applicable)

to act as my authorized agent to apply for an application(s) for:

440 Essa Road, Barrie, ON				
Street Address	Unit #	City or Town	Province	Postal Code

If there are any changes in the above information and/or I wish to withdraw this authorization, I must notify the City of Barrie in writing.

	April 21, 2023
Owner Signature (I have the authority to bind the corporation, where applicable)	Date

Site Plan Application Manual

2.5 Site Plan Approval Process

