

City Clerk No. 4290
Subject APPEAL - OPA S62/Z-7698
-3804 Southwinds Dr - Draft
Plan Approval 39T-09503
DEC 23 2013
(cheque - \$250.00 included)
Ref. J. Nethercott
C.C. J. Riser
Ref to: JNJP

2013-LO1

Valerie M'Garry Law Office
P.O. Box 40
37 Millmanor Place
Delaware, Ontario
NOL 1E0

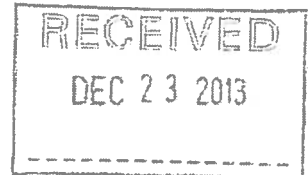
Certified Specialist in Municipal Law

December 23, 2013

File Number: 357

Ms. Catharine Saunders
City Clerk
Corporation of the City of London
300 Dufferin Avenue, 6th Floor
London, ON N6A 4L6

HAND DELIVERED



Dear Ms. Saunders:

**RE: Official Plan Amendment No. 562, Zoning By-law Amendment Z-1-142250
and draft plan approval - City of London File # 39T-09503
3804 Southwinds Drive, London, Ontario**

Attached please find the Ontario Municipal Board Forms for each of these above-captioned appeals for which we have received notice as of this date.

Although there was a recommendation that the approval authority provide draft plan approval of the above-captioned subdivision, no notice with respect to same has been received as of today's date. It will be appealed if approved - but we are unable to do so at this time, absent any information on what has happened since the matter was before Planning Committee and Council - despite repeated requests for information on its status since December 3rd, when the matter was last before Council.

The grounds for the zoning by-law appeal in particular, which are somewhat more extensive than those that relate to the Official Plan appeal, may be summarized generally as follows:

1. The proposed development does not comply with the Provincial Policy Statement in that it proposes development in excess of 5 lots on individual on-site sewage services, contrary to the PPS;

Telephone: (519) 652-5329

e-mail: valerie@citylaw.ca

Fax: (519) 652-9773

2. The lands are outside of the Urban Growth Boundary, and development in this context is therefore premature;
3. It contravenes the municipality's own Official Plan, in particular, Special Policy Section 9.3;
4. There are continuing hydrogeologic, hydraulic and sewage impact concerns which have not been adequately addressed by the proponent;
5. There is a serious problem with runoff and flooding from the subject lands which will be exacerbated and increased by development of those lands, causing substantial risk to the septic system at 3915 Southwinds Drive (abutting lands) and constituting a private nuisance, in fact and at law.
6. The proposed draft plan approval development conditions are inadequate to prevent future adverse impacts on the water and sewers systems on the neighbouring lands;
7. The Official Plan amendments necessitated by this development proposal are inadequate for the purpose, meaning that any rezoning amendments premised upon the required Official Plan amendments are similarly flawed;
8. Such further and other grounds as the Board will permit.

Please also find enclosed our firm cheque in the amount of \$250.00 for the processing of these appeals.

We note with concern that, although technically compliant with the provisions of the *Planning Act* with respect to appeals, the City has sent out notices dated December 12th, 2013, and specifying an appeal deadline of 4:30 p.m. on January 2nd, 2014, based on the statutory 20 days.

Given that City Hall is closed from noon on December 24th through to 8:30 in the morning of January 2nd, the actual appeal period has been reduced by 10 days, since it

December 23, 2013
Page 3

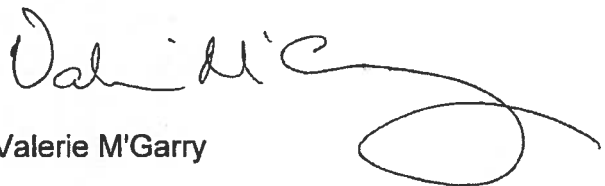
will not be possible for an appeal to be filed with the Municipal Clerk's Office during that time. When one adds in the time spent in the mail before delivery, to an area well distant from the core, at an exceptionally busy time of year for mail delivery, the actual available appeal period shrinks dramatically - to about 8 days, based on the timing of notice delivery experienced by our clients.

One would have thought that the municipal officials would have regard for the fact that the offices in which the appeal is to be filed will be inaccessible for a period of 10 days, and allowed for part of that time to also be lost to the mail system. That ought to have led, we suggest, to the giving of notice being postponed, pursuant to ss 17(23 and 34(18), until at least December 24th, the last day that the City is open for business this year, so as to ensure potential appellants the best opportunity, at a time of year when many will have made advance plans to be away from the City of London, to make a full and informed determination of whether or not they wish to appeal and to file such appeal.

Please also note that, although at the time Mr. Dittmer filled out the zoning by-law appeal form, he appointed this office as his representative, there have been discussions since with other potential appellants, who will be represented by the firm of McKenzie Lake, and it appears that the appeals may be consolidated. As a result, please also show the McKenzie Lake firm, attention Mr. Don Bryant or Mr. Steve Gibson, at 140 Fullarton Street, Suite 1800, London, Ontario, N6A 5P2, as counsel for Mr. Dittmer. Their other relevant contact information is: phone: 519-672-5666 and fax: 519-672-2674. If the parties currently represented by McKenzie Lake do file appeals and the parties decide to consolidate their efforts, we will ensure that the Board is advised accordingly as soon as that information is available.

Thank you for your assistance in this regard.

Yours very truly,


Valerie M'Garry

VM'G/hp
Encl.

cc: Elizabeth MacKinnon and Doug Dittmer



Ontario Municipal Board
 Commission des affaires municipales de l'Ontario
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820
 FAX: (416) 326-5370
www.omb.gov.on.ca

APPELLANT FORM (A1)
PLANNING ACT – Bill 51

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

Instructions:

- Complete one form for each type of appeal you are filing.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
- The *Planning Act* and the *Ontario Municipal Board Act* are available at www.omb.gov.on.ca.

Receipt Number (OMB Office Use Only):

Date Stamp - Appeal Received by Municipality

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent | <input type="checkbox"/> Appeal a decision or conditions imposed | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law/Amendments | <input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| Subdivision | <input type="checkbox"/> Appeal a decision | 51(39) |
| | <input type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 Southwinds Drive
Address and/or Legal Description of property subject to the appeal:

Municipality: London

Part 3: Appellant Information

First Name: _____ Last Name: _____

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town
Province _____ (if not Canada) Postal Code _____
Signature of Appellant: _____ Date: _____

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Valerie Last Name: M'Garry

Company Name: Valerie M'Garry Law Office

Professional Title: Lawyer

E-mail Address: Valerie@citylaw.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-652-5329 Alternate Telephone #: 519-878-7044 (cell) ^{*not preferred}

Fax #: 519-652-9773

Mailing Address: 37 Millmanor Place, P.O. Box 40 Delaware
Street Address Apt/Suite/Unit# City/Town
ON TA 0 N0L1E0
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: Dec 16/13

(continued on next page...)

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please Print) By-law No. C.P.- (284(tn))-8, which adopts OP Amendment # 562 to the City of London OP, 1989.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required please continue in Part 8 or attach a separate page.

(Please Print) The OP amendment redesignates too small an area, based on the required EIS and the City Guideline on Ecological Buffers, thus imperilling the health and ongoing protection of ESA lands. In addition, the proposed draft conditions for designation and protection of the ESA lands are non-compliant with City policy and inadequate for the purpose.

****The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted on or after January 1, 2007 please use the OMB1 'Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required please continue in Part 8 or attach a separate page.

Part 9: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque * Money Order
Solicitor's

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.

*Or Solicitor's general or trust account cheque.



Ontario Municipal Board
 Commission des affaires municipales de l'Ontario
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 326-6800 or Toll Free: 1-866-887-8820
 FAX: (416) 326-5370
www.omb.gov.on.ca

APPELLANT FORM (A1)

PLANNING ACT – Bill 51

(SUBMIT TO MUNICIPALITY/APPROVAL AUTHORITY)

Instructions:

- Complete one form for each type of appeal you are filing.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- Submit your completed appeal form(s) and filing fee(s) to either the Approval Authority or Municipality, as applicable, by the required filing deadline. The Approval Authority/Municipality will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- Please print clearly throughout the appeal form.
- The *Planning Act* and the *Ontario Municipal Board Act* are available at www.omb.gov.on.ca.

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent | <input type="checkbox"/> Appeal a decision or conditions imposed | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law/Amendments | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input checked="" type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| Subdivision | <input type="checkbox"/> Appeal a decision | 51(39) |
| | <input type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 Southwinds Drive
Address and/or Legal Description of property subject to the appeal:

Municipality: London

Part 3: Appellant Information

First Name: [redacted] Last Name: [redacted]

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address: [redacted]
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [redacted] Alternate Telephone #: [redacted]

Fax #: [redacted]

Mailing Address: [redacted] [redacted] [redacted]
Street Address Apt/Suite/Unit# City/Town
[redacted] [redacted]
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Valerie Last Name: M'Garry

Company Name: Valerie M'Garry Law Office

Professional Title: Lawyer

E-mail Address: valerie@citylaw.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-652-5329 Alternate Telephone #: 519-878-7044 (cell) ^{*not} preferred

Fax #: (519) 652-9773

Mailing Address: 37 Millmanor Place P.O. Box 40 Delaware
Street Address Apt/Suite/Unit# City/Town
ONT NO L1E0
Province Country (if not Canada) Postal Code

Signature of Appellant: Z L Date: Dec 23, 2013

letter

(continued on next page...)

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please Print) Municipal By-law # Z-1-142250 + Planning Subdivision File # OZ-7698, intended to rezone lands in order to permit draft plan approval of a plan of subdivision, File No. 39T-09503

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required please continue in Part 8 or attach a separate page.

(Please Print) See attached letter, dated Dec 23, 2013, on letterhead of Valerie M'Garry Law Office.

****The following sections (a&b) apply only to appeals of Zoning By-law Amendments under Section 34(11) of the Planning Act.**

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: August 25, 2009
(If application submitted on or after January 1, 2007 please use the OMB1 'Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required please continue in Part 8 or attach a separate page.

The proposal is to rezone lands (assuming approval of the OP amendments also required and under appeal) from AG 1, a holding AG zone, an Environmental Review zone, an Open Space zone and a holding open space zone, to Residential R1 (special provision R-14) and OS 5, with some holding provisions associated with compliance with draft subdivision plan approvals. The proposal is to develop the residential lands on 17 individual private sewage and septic services, and on 17 individual private wells on lots. The objectors believe are insufficient in size to comply with the OP, are esemented, and inadequate for the needs of both the individual lots within the proposed plan, and with virtually certain adverse impacts on all the neighbouring lands. The lands are surrounded on 3 sides by prime Ag 1 lands, currently active in production. They include a stretch of Deyman Creek and its associated environmentally sensitive area, and abuts two lots in a much older estate lot subdivision established

Part 6: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please Print) Appeal c) GP amendment #562 of the City of London GP, 1989
(adopted by by-law C.P. 1284(tn)-8, and, once notice is provided, there will
be a proposal to the draft plan of subdivision, file no. 39T09503, which has been
recommended to the approval authority, but no notice of adoption has been

Part 7: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week - please specify number of days: _____

How many witnesses do you expect to have at the hearing? undetermined at present

Describe witness(es)' area of expertise: _____

Do you believe this matter would benefit from mediation? YES NO
Do you believe this matter would benefit from a Prehearing Conference? YES NO

If yes, why? _____

Part 8: Other Applicable Information **Attach a separate page if more space is required.

by the former municipality of Westminster, under an older planning regime
and which became amalgamated with the City of London in its
major annexation bid in the 1990's. The lands have continued, however,
to remain outside of the Urban Growth Boundary.

Part 9: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque *
Solicitor's

Money Order

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.

*Or Solicitor's general or trust account cheque.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elt.o.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

RECEIVED
 DEC 24 2013

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| | <input type="checkbox"/> Appeal a decision | 53(19) |
| Consent/Severance | <input type="checkbox"/> Appeal conditions imposed | 53(19) |
| | <input type="checkbox"/> Appeal changed conditions | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| | <input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | 34(11) |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | 22(7) |
| Plan of Subdivision | <input type="checkbox"/> Appeal a decision | 51(39) |
| | <input type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 South Winds Drive, London, Ontario

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Corporation of the City of London

Part 3: Appellant Information

First Name: _____ Last Name: _____

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

Ontario N6P 1E6
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the Planning Act, R.S.O. 1990, c. P. 13, as amended, and the Ontario Municipal Board Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Stephen Last Name: Gibson

Company Name: McKenzie Lake Lawyers LLP

Professional Title: Lawyer

E-mail Address: gibson@mckenzielake.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-672-5666 x 310 Alternate Telephone #: 519-636-8276

Fax #: 519-672-2674

Mailing Address: 140 Fullarton Street 1800 London
Street Address Apt/Suite/Unit# City/Town

Ontario N6A 5P2
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: 12/23/2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

Appeal of By-Law No. Z-1-142250 passed by Council of the Corporation of the City of London on December 3, 2013.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

- i) Zoning By-Law No. Z-1-142250 has a stated purpose of rezoning lands to permit development of a 17-unit residential subdivision involving single detached dwellings.
- ii) The servicing strategy for the proposed subdivision contemplates, among other things, water supply by individual, on-site private wells.
- iii) The Appellant contends that the servicing strategy for the proposed subdivision as contemplating individual, on-site private wells for the supply of water, is inconsistent with the Provincial Policy Statement (2005) in that:
 - a. The proposed development contemplates more than five (5) lots.
 - b. Site conditions within the proposed subdivision are not, or, alternatively, have not been demonstrated as suitable for the long-term supply of water of acceptable quantity and quality.
 - c. The proposed subdivision does not satisfy the pre-conditions for individual on-site water services for a new development of more than five (5) lots or private residences.
- iv) The Appellant contends that rezoning to accommodate the proposed subdivision is inconsistent with the Official Plan for the City of London in that:
 - a. Rezoning and proposed subdivision contemplates and represents residential development beyond the urban growth boundary and outside of the urban growth area for the City of London.
 - b. The rezoning and proposed subdivision contemplates and represents expansion of residential development within an inappropriate area based upon, among other things, the unavailability of municipal services and the undetermined supply of acceptable quantity and quality of water.
 - c. As residential development within an apparent rural settlement designation, the rezoning and proposed subdivision fails to satisfy the policies applicable thereto, including:
 - Residential use in rural area other than on an infill basis.
 - Residential development on lots not suitably sized for proper siting and functioning of reliable on-site water supply.
 - Failing to meet or exceed service requirements for the supply of water for fire protection.
 - Failure to require the Applicant to demonstrate that the lands to be developed can provide a natural supply of water which meets or exceeds the Ontario Drinking Water Standards to the satisfaction of the Middlesex-London Medical Officer of Health without affecting the quality and quantity of water in active wells operating in the general vicinity.
- v) The Appellant contends that, for the reasons indicated in items iii) and iv), the rezoning provided for in Zoning By-Law Z-1-142250 does not represent good planning and should not be approved.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

- Application for Approval of Plan of Subdivision awaiting decision of Approval Authority

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Four (4) witnesses in total including two (2) expert witnesses.

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*
Land Use Planner/Engineer

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

The parties currently await the decision of the Approval Authority in respect of an Application for Approval of the Proposed Plan of Residential Subdivision submitted by the Applicant in respect of the lands to which the Zoning By-Law Amendment under appeal herein relates. It is anticipated that the Appellant hereunder may appeal any such decision to approve the said proposed Plan of Subdivision or relevant conditions in respect thereof and in particular any condition relating to or allegedly accounting for the risk of negative impact on existing domestic wells in the vicinity of the proposed subdivision, including that of the Appellant.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elt.o.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

RECEIVED
DEC 24 2013

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent/Severance | <input type="checkbox"/> Appeal a decision | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | |
| | <input type="checkbox"/> Appeal changed conditions | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law or Zoning By-law Amendment | <input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | |
| Plan of Subdivision | <input type="checkbox"/> Appeal a decision | 51(39) |
| | <input type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 South Winds Drive, London, Ontario

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Corporation of the City of London

Part 3: Appellant Information

First Name: [redacted] Last Name: [redacted]

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): [redacted]

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [redacted] Alternate Telephone #: [redacted]

Fax #: _____

Mailing Address: [redacted] London
Street Address Apt/Suite/Unit# City/Town
[redacted] [redacted]
Province Country (if not Canada) Postal Code

Signature of Appellant: [redacted] Date: [redacted]
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Stephen Last Name: Gibson

Company Name: McKenzie Lake Lawyers LLP

Professional Title: Lawyer

E-mail Address: gibson@mckenzielake.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-672-5666 x 310 Alternate Telephone #: 519-636-8276

Fax #: 519-672-2674

Mailing Address: 140 Fullarton Street 1800 London
Street Address Apt/Suite/Unit# City/Town
Ontario N6A 5P2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: December 23, 2013

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

Appeal of By-Law No. Z-1-142250 passed by Council of the Corporation of the City of London on December 3, 2013.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

| | | | | | | | |
|------|---|----|---|----|---|----|--|
| i) | Zoning By-Law No. Z-1-142250 has a stated purpose of rezoning lands to permit development of a 17-unit residential subdivision involving single detached dwellings. | | | | | | |
| ii) | The servicing strategy for the proposed subdivision contemplates, among other things, water supply by individual, on-site private wells. | | | | | | |
| iii) | The Appellant contends that the servicing strategy for the proposed subdivision as contemplating individual, on-site private wells for the supply of water, is inconsistent with the Provincial Policy Statement (2005) in that: <table border="1"> <tr> <td>a.</td> <td>The proposed development contemplates more than five (5) lots.</td> </tr> <tr> <td>b.</td> <td>Site conditions within the proposed subdivision are not, or, alternatively, have not been demonstrated as suitable for the long-term supply of water of acceptable quantity and quality.</td> </tr> <tr> <td>c.</td> <td>The proposed subdivision does not satisfy the pre-conditions for individual on-site water services for a new development of more than five (5) lots or private residences.</td> </tr> </table> | a. | The proposed development contemplates more than five (5) lots. | b. | Site conditions within the proposed subdivision are not, or, alternatively, have not been demonstrated as suitable for the long-term supply of water of acceptable quantity and quality. | c. | The proposed subdivision does not satisfy the pre-conditions for individual on-site water services for a new development of more than five (5) lots or private residences. |
| a. | The proposed development contemplates more than five (5) lots. | | | | | | |
| b. | Site conditions within the proposed subdivision are not, or, alternatively, have not been demonstrated as suitable for the long-term supply of water of acceptable quantity and quality. | | | | | | |
| c. | The proposed subdivision does not satisfy the pre-conditions for individual on-site water services for a new development of more than five (5) lots or private residences. | | | | | | |
| iv) | The Appellant contends that rezoning to accommodate the proposed subdivision is inconsistent with the Official Plan for the City of London in that: <table border="1"> <tr> <td>a.</td> <td>Rezoning and proposed subdivision contemplates and represents residential development beyond the urban growth boundary and outside of the urban growth area for the City of London.</td> </tr> <tr> <td>b.</td> <td>The rezoning and proposed subdivision contemplates and represents expansion of residential development within an inappropriate area based upon, among other things, the unavailability of municipal services and the undetermined supply of acceptable quantity and quality of water.</td> </tr> <tr> <td>c.</td> <td>As residential development within an apparent rural settlement designation, the rezoning and proposed subdivision fails to satisfy the policies applicable thereto, including: <ul style="list-style-type: none"> • Residential use in rural area other than on an infill basis. • Residential development on lots not suitably sized for proper siting and functioning of reliable on-site water supply • Failing to meet or exceed service requirements for the supply of water for fire protection. • Failure to require the Applicant to demonstrate that the lands to be developed can provide a natural supply of water which meets or exceeds the Ontario Drinking Water Standards to the satisfaction of the Middlesex-London Medical Officer of Health without affecting the quality and quantity of water in active wells operating in the general vicinity. </td> </tr> </table> | a. | Rezoning and proposed subdivision contemplates and represents residential development beyond the urban growth boundary and outside of the urban growth area for the City of London. | b. | The rezoning and proposed subdivision contemplates and represents expansion of residential development within an inappropriate area based upon, among other things, the unavailability of municipal services and the undetermined supply of acceptable quantity and quality of water. | c. | As residential development within an apparent rural settlement designation, the rezoning and proposed subdivision fails to satisfy the policies applicable thereto, including: <ul style="list-style-type: none"> • Residential use in rural area other than on an infill basis. • Residential development on lots not suitably sized for proper siting and functioning of reliable on-site water supply • Failing to meet or exceed service requirements for the supply of water for fire protection. • Failure to require the Applicant to demonstrate that the lands to be developed can provide a natural supply of water which meets or exceeds the Ontario Drinking Water Standards to the satisfaction of the Middlesex-London Medical Officer of Health without affecting the quality and quantity of water in active wells operating in the general vicinity. |
| a. | Rezoning and proposed subdivision contemplates and represents residential development beyond the urban growth boundary and outside of the urban growth area for the City of London. | | | | | | |
| b. | The rezoning and proposed subdivision contemplates and represents expansion of residential development within an inappropriate area based upon, among other things, the unavailability of municipal services and the undetermined supply of acceptable quantity and quality of water. | | | | | | |
| c. | As residential development within an apparent rural settlement designation, the rezoning and proposed subdivision fails to satisfy the policies applicable thereto, including: <ul style="list-style-type: none"> • Residential use in rural area other than on an infill basis. • Residential development on lots not suitably sized for proper siting and functioning of reliable on-site water supply • Failing to meet or exceed service requirements for the supply of water for fire protection. • Failure to require the Applicant to demonstrate that the lands to be developed can provide a natural supply of water which meets or exceeds the Ontario Drinking Water Standards to the satisfaction of the Middlesex-London Medical Officer of Health without affecting the quality and quantity of water in active wells operating in the general vicinity. | | | | | | |
| v) | The Appellant contends that, for the reasons indicated in items iii) and iv), the rezoning provided for in Zoning By-Law Z-1-142250 does not represent good planning and should not be approved. | | | | | | |

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO
Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

- Application for Approval of Plan of Subdivision awaiting decision of Approval Authority

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Four (4) witnesses in total including two (2) expert witnesses.

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*
Land Use Planner/Engineer

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

The parties currently await the decision of the Approval Authority in respect of an Application for Approval of the Proposed Plan of Residential Subdivision submitted by the Applicant in respect of the lands to which the Zoning By-Law Amendment under appeal herein relates. It is anticipated that the Appellant hereunder may appeal any such decision to approve the said proposed Plan of Subdivision or relevant conditions in respect thereof and in particular any condition relating to or allegedly accounting for the risk of negative impact on existing domestic wells in the vicinity of the proposed subdivision, including that of the Appellant.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

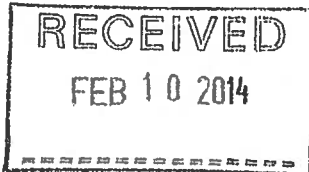


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Ontario Municipal Board
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 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality



Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent/Severance | <input type="checkbox"/> Appeal a decision | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | |
| | <input type="checkbox"/> Appeal changed conditions | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | |
| Plan of Subdivision | <input checked="" type="checkbox"/> Appeal a decision | 51(39) |
| | <input type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 Southwinds Drive
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: London

Part 3: Appellant Information

First Name: [redacted] Last Name: [redacted]

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address: [redacted]

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [redacted] Alternate Telephone #: [redacted]

Fax #: [redacted]

Mailing Address: [redacted]

Street Address Apt/Suite/Unit# City/Town

[redacted]

Province Country (if not Canada) Postal Code

Signature of Appellant: [redacted] Date: [redacted]

(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Valerie Last Name: M'Garry

Company Name: Valerie M'Garry Law Office

Professional Title: Lawyer

E-mail Address: valerie@citylaw.ca

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-652-5329 Alternate Telephone #: 519-878-7044 (cell)

Fax #: 519-652-9773

Mailing Address: 37 Millmanor Place, P.O. Box 40 Delaware

Street Address Apt/Suite/Unit# City/Town

Ontario NOL 1E0

Province Country (if not Canada) Postal Code

Signature of Appellant: Val M'Garry, counsel Date: Feb 9, 2014

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print) Notice of Decision re Draft Plan of Subdivision, dated Jan 21, 2014. City of London File # 39T 09503

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print) The appeal is with respect to both the decision itself and the conditions imposed. Please see attached letters, one dated December 23, 2013, and one dated Feb 13, 2014, dealing with the grounds for the appeals and some comments on process.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print) Appeal of OP Amendment #562 of the City of London, and appeals of ZBL # 7-1-142250 (ZBL amendment) - City of London Planning file # 02-7698, already submitted and now comprising OMB file # PL 140043 and PL 140044



Environment and Land Tribunals Ontario
Ontario Municipal Board
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 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent/Severance | <input type="checkbox"/> Appeal a decision | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | |
| | <input type="checkbox"/> Appeal changed conditions | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
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Part 2: Location Information

3804 South Winds Drive, London, Ontario
 Address and/or Legal Description of property subject to the appeal:

Part 3: Appellant Information

First Name: [redacted] Last Name: [redacted]

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): [redacted]

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [redacted] Alternate Telephone #: [redacted]

Fax #: _____

Mailing Address: [redacted] [redacted] [redacted]
Street Address Apt/Suite/Unit# City/Town

[redacted] [redacted] [redacted]
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: [redacted]
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Ste hen Last Name: Gibson

Company Name: McKenzie Lake La ers LLP

Professional Title: La er

E-mail Address: gibson@mckenzielake.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-672-5666 x 310 Alternate Telephone #: 519-636-8276

Fax #: 519-672-2674

Mailing Address: 140 Fullarton Street 1800 London
Street Address Apt/Suite/Unit# City/Town

Ontario N6A 5P2
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: February 7, 2014

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her

behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

- Appeal of Approval of Draft Plan of Subdivision, Subdivision File No. 39T-09503, dated January 21, 2014.
- Appeal of Conditions of Approval of Draft Plan of Subdivision, Subdivision File No. 39T-09503, dated January 21, 2014, and in particular conditions 12, 32, 33, 34, and 35.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

The Appellant contends that:

- (a) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to available water supply to service the proposed subdivision lots by private wells.
- (b) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to potential negative impact of private wells servicing proposed subdivision lots upon the available water supply.
- (c) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to potential negative impact, including sustainability, of private wells servicing proposed subdivision lots upon existing private wells servicing residences in the vicinity of but not included within Subdivision Lands.
- (d) The Respondent Approving Authority granted approval for Draft Plan of Subdivision based upon incomplete and inadequate hydrogeological investigations and studies as prepared and submitted on behalf of the Applicant Landowner/Developer, particularly in respect of any potential negative effect of private water wells servicing subdivision lots upon available water supply and the concurrent risk of such new water wells to existing water wells servicing residences in the vicinity of but outside of the Subdivision Lands.
- (e) The Respondent Approving Authority granted approval for Draft Plan of Subdivision without requiring and accounting for historical information from landowners as to the negative impacts of new water wells upon available water supply and existing water wells, including but not limited to sustainability.
- (f) Although the Respondent Approving Authority has imposed conditions addressing water supply and well construction/installation issues, including water quality monitoring, the conditions so imposed are deficient and do not account for or provide protection of or relief to surrounding landowners whose existing water wells are at risk, including as to sustainability, as a result of the construction/installation of private water wells servicing subdivision lots.

More specifically in respect of conditions relating to water supply and private water wells as imposed by the Respondent Approving Authority, the Appellant notes and/or complains that:

- (i) Water quality monitoring is limited to the periods of site alteration, dwelling construction, and assumption by the Municipality (Condition 12).
- (ii) Required remedial works are to be completed only to the satisfaction of the Municipality and at no cost to the Municipality (Condition 12).
- (iii) The Applicant Landowner/Developer is required to provide copies of water quality monitoring reports only to the City Engineer (for the Municipality) (Condition 12).
- (iv) Location and/or depth of any water well to service a subdivision lot is not adequately specified, including by reference to Ontario Regulation 903 (Condition 32).

- (v) The condition and/or depth of any water well to service a subdivision lot is made in reference to a servicing plan or strategy which is based upon incomplete and/or inadequate hydrogeological investigations and studies (Condition 32).
- (vi) Written confirmation of responsibility of the Applicant Landowner/Developer for coordination of construction and monitoring of any water well system on each subdivision lot with the owner of such lot so as to avoid servicing conflicts is provided only to the Municipality (Condition 34).
- (vii) Details as to actual location and/or construction of private water wells servicing any subdivision lot and in accordance with the servicing plan submitted by the Applicant Landowner/Developer is provided only to the Municipality prior to issuance of any Certificate of Approval with respect to such subdivision lot.

The Appellant contends that, if Approval of Draft Plan of Subdivision is to be granted, the conditions thereto should provide, in part, that:

- (i) At least twice yearly water quality monitoring shall be undertaken, at the expense of the Applicant Landowner/Developer, for a period of at least ten (10) years following assumption of subdivision services and facilities by the Municipality.
- (ii) Water quality monitoring reports should be available to any surrounding landowner servicing his or her residence by private water well and confirmed as drawing water from the same aquifer as servicing the proposed subdivision.
- (iii) In the event of demonstrated adverse effect upon operation and/or sustainability of an existing water well following construction/installation of the first water well upon any subdivision lot and for the period of at least ten (10) years following assumption of subdivision services and facilities by the Municipality, any required remedial works, including, if necessary, drilling of a new well, for such existing well shall be arranged, completed, and paid for by the Applicant Landowner/Developer and to the satisfaction of the owner of the lands serviced by such existing well, without monetary contribution by such owner.

- i) The actual location and details of construction/installation of any private water well upon any subdivision lot shall be available to any surrounding landowner servicing his or her residence by private water well and confirmed as drawing water from the same aquifer as servicing the proposed subdivision.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
 **If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

- Application for Approval of Plan of Subdivision awaiting decision of Approval Authority

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Four (4) witnesses in total including two (2) expert witnesses.

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use Planner; Engineer/Hydrologist

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

The estimate of hearing set forth above relates to this Appeal only. In combination with the Zoning By-Law Appeal filed by the Applicant herein, the extended time for hearing of both related Appeals is up to four (4) days.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input type="checkbox"/> Appeal a decision | 45(12) |
| Consent/Severance | <input type="checkbox"/> Appeal a decision | 53(19) |
| | <input type="checkbox"/> Appeal conditions imposed | |
| | <input type="checkbox"/> Appeal changed conditions | 53(27) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 53(14) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(19) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 34(11) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | |
| Interim Control By-law | <input type="checkbox"/> Appeal the passing of an Interim Control By-law | 38(4) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Appeal a decision | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | |
| Plan of Subdivision | <input checked="" type="checkbox"/> Appeal a decision | 51(39) |
| | <input checked="" type="checkbox"/> Appeal conditions imposed | 51(43) or 51(48) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | 51(34) |

Part 2: Location Information

3804 South Winds Drive, London, Ontario
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Corporation of the City of London

Part 3: Appellant Information

First Name: [redacted] Last Name: [redacted]

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): [redacted]

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: [redacted] Alternate Telephone #: _____

Fax #: _____

Mailing Address: [redacted] [redacted] [redacted]
Street Address Apt/Suite/Unit# City/Town

[redacted] [redacted] [redacted]
Province (if not Canada) Postal Code

Signature of Appellant: [redacted] Date: [redacted]
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Stephen Last Name: Gibson

Company Name: McKenzie Lake Lawyers LLP

Professional Title: Lawyer

E-mail Address: gibson@mckenzielake.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-672-5666 x 310 Alternate Telephone #: 519-636-8276

Fax #: 519-672-2674

Mailing Address: 140 Fullarton Street 1800 London
Street Address Apt/Suite/Unit# City/Town

Ontario N6A 5P2
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: February 7, 2014

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

- Appeal of Approval of Draft Plan of Subdivision, Subdivision File No. 39T-09503, dated January 21, 2014.
- Appeal of Conditions of Approval of Draft Plan of Subdivision, Subdivision File No. 39T-09503, dated January 21, 2014, and in particular conditions 12, 32, 33, 34, and 35.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

The Appellant contends that:

- (a) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to available water supply to service the proposed subdivision lots by private wells.
- (b) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to potential negative impact of private wells servicing proposed subdivision lots upon the available water supply.
- (c) The Applicant Landowner/Developer has failed to fully and adequately conduct hydrogeological investigations and studies as to potential negative impact, including sustainability, of private wells servicing proposed subdivision lots upon existing private wells servicing residences in the vicinity of but not included within Subdivision Lands.
- (d) The Respondent Approving Authority granted approval for Draft Plan of Subdivision based upon incomplete and inadequate hydrogeological investigations and studies as prepared and submitted on behalf of the Applicant Landowner/Developer, particularly in respect of any potential negative effect of private water wells servicing subdivision lots upon available water supply and the concurrent risk of such new water wells to existing water wells servicing residences in the vicinity of but outside of the Subdivision Lands.
- (e) The Respondent Approving Authority granted approval for Draft Plan of Subdivision without requiring and accounting for historical information from landowners as to the negative impacts of new water wells upon available water supply and existing water wells, including but not limited to sustainability.
- (f) Although the Respondent Approving Authority has imposed conditions addressing water supply and well construction/installation issues, including water quality monitoring, the conditions so imposed are deficient and do not account for or provide protection of or relief to surrounding landowners whose existing water wells are at risk, including as to sustainability, as a result of the construction/installation of private water wells servicing subdivision lots.

More specifically in respect of conditions relating to water supply and private water wells as imposed by the Respondent Approving Authority, the Appellant notes and/or complains that:

- (i) Water quality monitoring is limited to the periods of site alteration, dwelling construction, and assumption by the Municipality (Condition 12).
- (ii) Required remedial works are to be completed only to the satisfaction of the Municipality and at no cost to the Municipality (Condition 12).
- (iii) The Applicant Landowner/Developer is required to provide copies of water quality monitoring reports only to the City Engineer (for the Municipality) (Condition 12).
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b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
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- Zoning By-Law Appeals – Case No. PL140043 – File Nos. PL140043/PL140044

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