



File Number: 39T-02511

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON FEBRUARY 17, 2015
FROM:	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT	AMENDMENT TO SPECIAL PROVISIONS AAR-CON ENTERPRISES CORP. CHELSEA GREEN SUBDIVISION (formerly Terrace Street Subdivision)

RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to entering into a subdivision agreement between The Corporation of the City of London and AAR-CON Enterprises Corp. for the subdivision of land over Part of Blocks A, B and C, Part of Terrace Street (Closed by By-law No. 8865-28, Inst. No. CB225), Registered Plan No. 437(C), All of Lots 1 to 12 (both inclusive), All of Block W and Part of Block R, Registered Plan No. 500 (amended by order No. EL34037), in the former Township of Westminster, now in the City of London, County of Middlesex, situated at the west limit of Terrace Street, west of Adelaide Street South.

- (a) the Ontario Municipal Board **BE ADVISED** that London Municipal Council supports the approval of the attached amended Special Provisions, (Schedule "A") which are to be contained in a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp. for the Chelsea Green Subdivision (39T-02511);

IT BEING NOTED that the recommended amendments to the Special Provisions in Part (a) above, which were approved by Municipal Council on September 2, 2014, affect clauses 28 (a), (b), (c), (d), (e), (f) and 28 (av), and addition of a new clause 28 ().

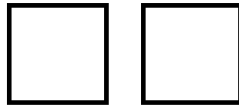
PREVIOUS REPORTS PERTINENT TO THIS MATTER

August 26, 2014 – Planning and Environment Committee – Report from the Managing Director, Development and Compliance Services and Chief Building Official regarding Special Provisions for a subdivision agreement with AAR-CON Enterprises Corp. for the Chelsea Green Subdivision (formerly Terrace Street Subdivision) (File No. 39T-02511) - *Agenda Item #7*.

BACKGROUND

Municipal Council, at its session held on September 2, 2014, resolved:

7. *That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to entering into a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp., for the subdivisions of land over Part of Blocks A, B and C, Part of Terrace Street (Closed by By-law No. 8865-28, Inst. No. CB225), Registered Plan No. 437(C), All of Lots 1 to 12 (both inclusive), All of Block W and Part of Block R, Registered Plan No. 500 (amended by order No. EL34037), (former Township of Westminster), City of London, County of Middlesex, situated at the west limit of Terrace Street, west of Adelaide Street South.*



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- (a) *the Ontario Municipal Board BE ADVISED that the Municipal Council supports the approval of the Special Provisions as appended as Schedule "C" to the staff report dated August 26, 2014, which are to be contained in a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp., for the Chelsea Green Subdivision (39T-02511);*
- (b) *the financing for this project BE APPROVED in accordance with the "Sources of Financing Report" appended as Schedule "A" to the staff report dated August 26, 2014;*
- (c) *the financing for this report BE APPROVED in accordance with the "Related Costs and Revenues" appended as Schedule "B" to the staff report, dated August 26, 2014; and,*
- (d) *the Mayor and the City Clerk BE AUTHORIZED to execute this Agreement, any amending agreements and all related documents required to fulfill its conditions;*

it being noted that the Planning and Environment Committee heard a verbal presentation from R. Dykstra, Ricor Engineering and reviewed and received a communication dated August 22, 2014, from J. Novick, Ricor Engineering, with respect to this matter. (2014-D12) (7/15/PEC)

The Ontario Municipal Board re-convened on December 11, 2014 to hear submissions by counsel for the City and for AAR-CON Enterprises Corp. with respect to outstanding concerns with the special provisions in the subdivision agreement dealing with the proposed methane gas barrier and venting system, and responsibility for its ongoing maintenance, repairs and/or replacement. The Board granted a request by the parties to continue further discussions in an effort to hopefully resolve the outstanding issues. The Board has adjourned the matter to February 26, 2015.

Subsequent discussions were held which included a review of options to provide long term security to the City for the proposed methane barrier. RICOR Engineering Ltd. on behalf AAR-CON Enterprises Corp. have brought forward a proposal for the payment of a lump sum amount to be provided to the City at the time of subdivision registration to cover replacement/upgrades to the system and ongoing maintenance and monitoring. The City would assume responsibility for the methane barrier to be constructed on City-owned parkland (future Brookside Park) immediately adjacent the subdivision, and there would be no further obligations or liability to AAR-CON or the future benefiting lot owners within the subdivision. The merits of this proposal from the legal and risk management perspectives are discussed further in a confidential report and recommendation being submitted by the City Solicitors Office.

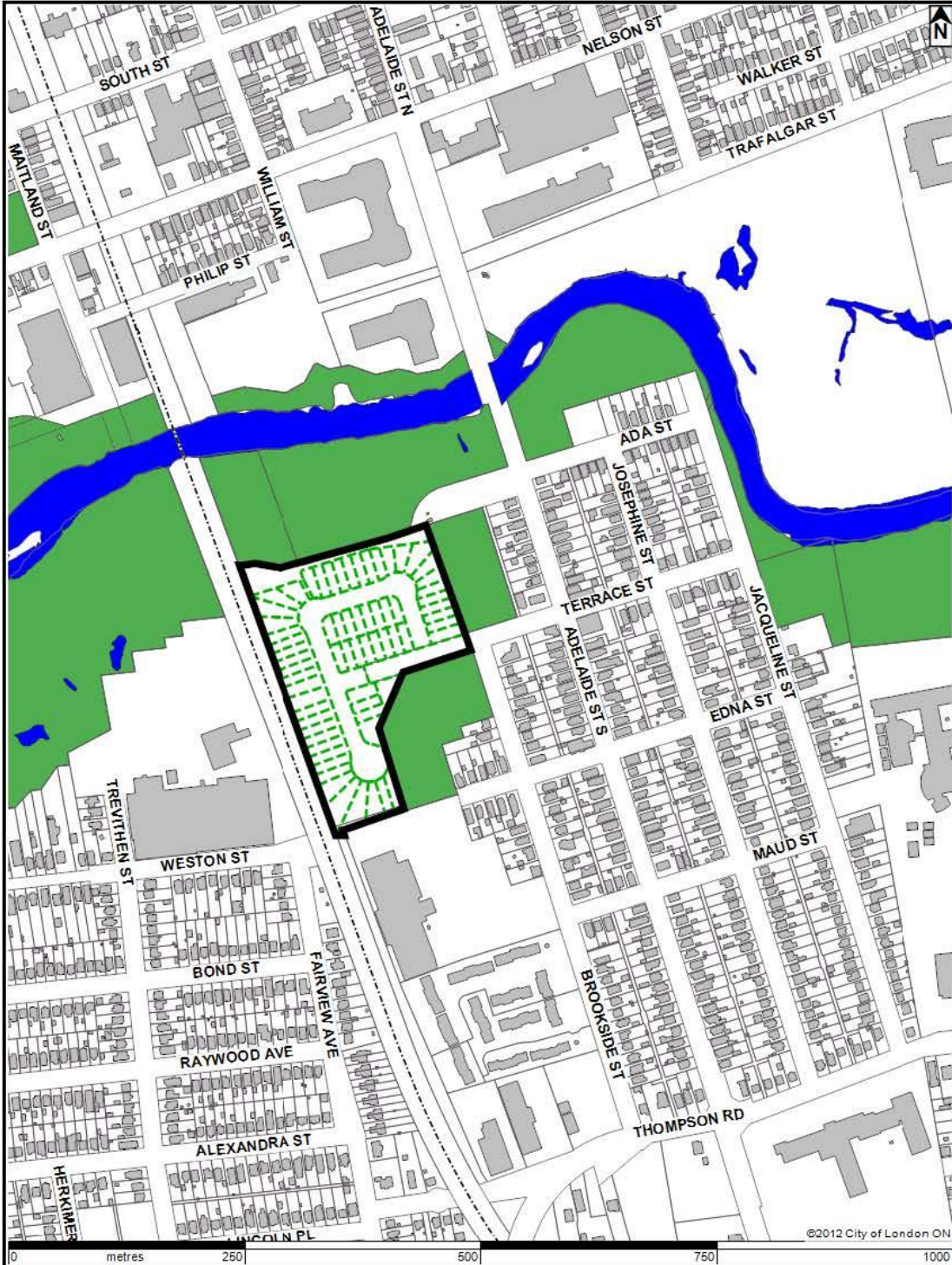
In another matter related to the special provisions which was also raised by AAR-CON at the post-hearing discussions was a concern about the requirement for a 1.5 metre chain link fence along the rear of Lots 9 to 21, at the interface with a private open space block (Block 67). This interface is characterized by a steep, vegetated slope and the concern was the fencing condition conflicts with the tree preservation plan and that removal of vegetation could potentially impact slope stability. Staff from Development Services and Environmental and Parks Planning, as well as the UTRCA, met on-site with consultants for AAR-CON to observe conditions and walked along the fence line. Based on visual observations of the slope, especially at the rear of Lots 9 to 13, there are extreme undulations and conflicts with tagged trees to be preserved which would make it impractical to install fencing.






The draft plan condition (Condition No. 27) approved by the OMB requires that *"Within one year of registration of the plan, the Owner shall fence all lots adjacent Block 67 with a 1.5 metre chain link fence SPO 4.8 with no gates. Any other fencing arrangements shall be to the satisfaction of the City."* Standard City survey monuments are frequently used to demarcate boundaries between private and public lands (ie. public parks) as an alternative where a fence is not feasible, and monuments are the only other reasonable alternative. Therefore, Special Provision clause 28 (av) has been amended to add wording as follows: *"...or alternatively the Owner shall install property boundary monuments, in accordance with City standards (SPO-4.7 standard reinforced concrete monument modified with lettering that reads "Private Property") along the northern lot lines of Lots 9 to 21, both inclusive."*



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Location Map



<p>LOCATION MAP</p> <p>Subject Site: 1 Terrace St Applicant: Whitney Engineering Inc. File Number: 39T-02511 Planner: Larry Mottram Created By: Frank Gerrits Date: 2012-10-01 Scale: 1:5000</p> <p>Corporation of the City of London Prepared By: Planning and Development</p>	<p>LEGEND</p> <ul style="list-style-type: none">  Subject Site  Parks  Assessment Parcels  Buildings  Address Numbers
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The recommended amendments to the Special Provisions, as previously adopted by Municipal Council, represent revisions to wording and/or replacement of clauses affecting Special Provisions 28 (a), (b), (c), (d), (e), (f), and 28 (av), and a new clause 28 (L). The specific changes to these provisions are highlighted in Schedule "A".

A BRIEF HISTORY OF THIS SUBDIVISION APPLICATION

On July 30, 2002, AAR-CON Enterprises Corp. submitted a draft plan of subdivision application for 107 single detached dwelling lots, 1 walkway block and 1 park/open space block served by the extension of Terrace Street and Brookside Street and 1 new street on 6.77 hectares of land located at 1 Terrace Street. The applicant submitted concurrent Official Plan and Zoning By-law Amendment applications to change the designation to Multi-Family, Medium Density Residential and Residential R1 (R1-13). Municipal Council supported the draft plan of subdivision, subject to conditions and red-line revisions, and the concurrent Official Plan and Zoning By-law Amendments. The City of London Subdivision Approval Authority granted draft approval to the plan as red-line amended subject to conditions on May 15, 2003.

CN Rail appealed the decision of the City of London Approval Authority. CN Rail and the applicant reached a settlement which required adding a condition of draft plan approval. The City did not object to the addition of the condition. On August 23, 2004 the Ontario Municipal Board approved the red-line amended draft plan of subdivision subject to the modified conditions.

Shortly after the draft approval was granted the City was advised that fill material was discovered over a significant portion of the draft approved plan. Studies submitted in support of the application indicated fill material (believed to be garbage) did exist on the site and that it was limited to being within the vicinity of a trunk storm sewer. The fill was reported to be used as backfill. As a result, the City and the applicant (which included Sifton Properties Limited through a joint venture) negotiated responsibility for the fill. Negotiations concluded with the City purchasing 2.647 hectares on November 14, 2008. The applicant retained the remaining 3.915 hectares.

The terms of the settlement reserved to the owners the right to seek appropriate amendments from the Ontario Municipal Board to their draft approved plan. This resulted in several requests over time to the OMB to prevent the draft approval from lapsing. The Ontario Municipal Board has extended the lapse date on a number of occasions. At a hearing held on March 26, 2009 the applicant presented an amended plan of subdivision which reduced the number of residential lots from 107 to 66. At the hearing the applicant also presented a schedule for soils testing and site remediation to be conducted and a Record of Site Condition to be completed on the retained lands.

Revised draft plan conditions and a revised draft plan of subdivision were accepted and approved by the OMB in its decision issued on May 10, 2012. The draft plan shows 66 single detached dwelling lots and one (1) private open space block, served by the extension of Terrace Street and two new streets. Draft plan approval lapses on April 15, 2015, unless the OMB decides to grant another extension in order to ensure sufficient time to complete the final approval process. This plan of subdivision was given draft approval by the OMB which has reserved to itself the delegation of formal approval authority of the final plan of subdivision and subdivision agreement.

The subdivision shall be registered in one (1) phase, consisting of 66 single family lots and one open space block, the extension of Terrace Street and two (2) new local streets, Yvonne Crescent and Yvonne Court.



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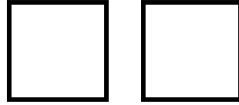
A copy of the subdivision plan is attached as Schedule "B". A copy of the staff report to PEC from August 26, 2014 is also attached for the information of the Committee. This report and Special Provisions have been prepared in consultation with the City Solicitor's Office (Geoff Belch and David Mounteer) and Environmental and Engineering Services (Wes Abbott).

RECOMMENDED BY:	REVIEWED BY:
LARRY MOTTRAM, MCIP, RPP SENIOR PLANNER, DEVELOPMENT SERVICES	BRUCE HENRY MANAGER OF DEVELOPMENT PLANNING
CONCURRED BY:	SUBMITTED BY:
JENNIE RAMSAY, P. ENG. MANAGER, DEVELOPMENT SERVICES & ENGINEERING LIAISON	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

LM/lm
Attach.
Feb. 6, 2015

Y:\Shared\DEVELOPMENT SERVICES\4 - Subdivisions\2002\39T-02511 AAR-CON Enterprises\Special Provisions\PEC Report Feb 17-'15 - Chelsea Green Subdivision (formerly Terrace Street) 39T-02511.docx

cc. Lerner's LLP (Att'n: Fred Tranquilli)
AAR-CON Enterprises Corp.
Ricor Engineering Ltd.



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SCHEDULE A – AMENDED AND ADDED SPECIAL PROVISIONS

Special Provision clause 28 (a) which reads as follows:

- (a) *Prior to the issuance of any Certificates of Conditional Approval for any lots in this plan, a methane gas control system shall be installed between the lands owned by the City and the lands owned by the Owner of this plan of subdivision. An application for Environmental Compliance Approval for the system must be filed with the Ministry of the Environment and Climate Change. The design of the system must be approved by the City Engineer, and constructed and monitored in accordance with the approved design. The Owner shall obtain an easement from the City to construct the methane gas control system and be responsible for the ongoing maintenance and monitoring of the system, all to the satisfaction of and at no cost to the City.*

is deleted in its entirety and is replaced with the following special provision:

- (a) *Prior to the issuance of any Certificates of Conditional Approval for any lots in this plan, a methane gas barrier with a ventilation system shall be constructed and installed by the City, on lands owned by the City adjacent to this plan of subdivision; and an application for Environmental Compliance Approval for the system must be filed by the Owner with the Ministry of the Environment and Climate Change.*

Special Provision clause 28 (b) which reads as follows:

- (b) i) *Prior to the issuance of any Certificates of Conditional Approval for Lots 44, 45, 46, 47, 48, 49, and 50 in this plan, the methane gas control system between the lands owned by the City and the lands owned by the Owner of this plan of subdivision must be approved by the Ministry of the Environment and Climate Change, and must be installed and operational.*
- ii) *Until the system has been approved by the Ministry of the Environment and Climate Change, and has been installed and is operational, for all other lots within 30 metres of the methane gas control system (Lots 1, 42, 43, 55, 56, 57 and 58), the Owner shall conduct a bar test for methane gas at the building foundation excavation stage. Construction of any homes on these lots must incorporate methane gas monitoring systems.*

is deleted in its entirety and is replaced with the following special provision:

- (b) i) *Prior to the issuance of any Certificates of Conditional Approval for Lots 44, 45, 46, 47, 48, 49, and 50 in this plan, the methane gas barrier with a ventilation system on lands owned by the City adjacent to this plan of subdivision must be approved by the Ministry of the Environment and Climate Change, and must be installed and operational.*
- ii) *Until the system has been approved by the Ministry of the Environment and Climate Change, and has been installed and is operational, for all other lots within 30 metres of the methane gas barrier with a ventilation system (Lots 1, 42, 43, 55, 56, 57 and 58), the Owner shall conduct a bar test for methane gas at the building foundation excavation stage, to the satisfaction of the City Engineer. If the bar tests indicates the presence of methane gas, the home cannot be constructed until the methane gas barrier with a ventilation system is operational and functioning as intended. Construction of any homes on these lots must incorporate methane gas monitoring systems to the satisfaction of the City Engineer, if constructed before the methane gas barrier with a ventilation system is operational.*



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Special Provision clause 28 (c) which reads as follows:

- (c) *The City agrees to provide the Owner and the owners of Lots 44, 45, 46, 47, 48, 49, and 50, (the “Benefiting Owners”), with an easement estimated to be approximately six (6) metres over City owned lands, (described as **Parts _____ on Plan 33R-_____**), for the purpose of installing and maintaining a methane gas control system recommended by the Owner’s professional engineer as illustrated in a drawing by EXP, dated February 2014 entitled, “Methane Gas Barrier and Collection Trench layout”, as amended from time to time, all to the satisfaction of the City, and at no expense to the City.*

The Owner acknowledges that the foregoing easement located on City property can only be accessed by the Owner or benefiting property owners with the prior written consent of the City.

is deleted in its entirety.

Special Provision clause 28 (d) which reads as follows:

- (d) *Prior to the assumption of this subdivision in whole or in part by the City, the Owner shall have his professional engineer design and inspect the works recommended and supply the City with a certificate upon their completion, stating that the facilities recommended were installed and/or carried out in accordance with the recommendations. The report shall also include measures to control the migration of any methane gas to or from lands abutting this Plan.*

is deleted in its entirety.

Special Provision clause 28 (e) which reads as follows:

- (e) *The following warning clause shall be registered on title for Lots 44, 45, 46, 47, 48, 49, and 50, and shall be included in all Agreements of Purchase and Sale or Lease:*

*“The subject property has been confirmed as being in close proximity to a former landfill site. The Owner is required to have a methane gas barrier complemented with a venting system designed, constructed and monitored subject to Clause 28(a) of the Subdivision Agreement, between AAR-CON Enterprises Corp. and the Corporation of the City of London, **dated _____, 2014** as recommended by the Owner’s professional engineer and approved by the City, and that the benefiting owners must maintain the installed system or facilities in perpetuity, at no cost to the City”*

is deleted in its entirety and is replaced with the following special provision:

- (e) *The following warning clause shall be registered on title for Lots 44, 45, 46, 47, 48, 49, and 50, and shall be included in all Agreements of Purchase and Sale or Lease:*

“The subject property has been confirmed as being in close proximity to a former landfill site. A methane gas barrier with a ventilation system has been installed on lands owned by the City adjacent to this plan of subdivision. The methane gas barrier with a ventilation system is inspected and monitored on a regular basis. Test results can be obtained by contacting the City of London Environmental and Engineering Services Department.”



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Special Provision clause 28 (f) which reads as follows:

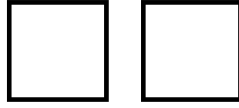
- (f) *Prior to assumption of this subdivision in whole or in part by the City, and as a condition of such assumption, the Owner shall pay to the City Treasurer the following accounts as set out or as calculated by the City, or portions thereof as the City may from time to time determine:*
 - (i) *A sum of \$54,000 to compensate the City to undertake regular or routine monitoring and minor repairs to the methane gas control system, such repairs defined for the purposes of this Agreement to be repairs in an amount not exceeding \$4,000 in any given year, for a period of 35 years,*
 - (ii) *The foregoing monitoring shall include regular monitoring which initially shall be at least six (6) times annually and after the first two (2) years shall be at least annually and shall include an annual report of the monitoring results to the Owner, and to benefitting or potentially affected future owners, to be delivered to the owners of Lots 44, 45, 46, 47, 48, 49, and 50 of this Plan,*
 - (iii) *Major repairs, including maintenance, reconstruction, re-design or repairs or excavations of the methane gas control system in an amount exceeding \$4,000 in any given year be performed by and at the sole and exclusive cost of the Owner, which is defined to be jointly and severally and to include the developer AAR-CON Enterprises Corp., and all benefitting Lot owners described as Lots 44, 45, 46, 47, 48, 49 and 50 of this Plan,*
 - (iv) *Notwithstanding any other provision of this Agreement the Owner and the City agree that the Owner and all benefitting Lot owners described as Lots 44, 45, 46, 47, 48, 49, and 50 of this Plan, shall be jointly and severally responsible to maintain the methane gas control system in perpetuity, at no cost to the City, at the conclusion of the foregoing 35 year period, and*
 - (v) *The Owner acknowledges and agrees that the City will not be required by the Owner or any subsequent owners to undertake any removal of the landfill material or undertake any site remediation of the City owned property adjacent and directly east of the Chelsea Green Subdivision.*

is deleted in its entirety and is replaced with the following special provision:

- (f) *Prior to the issuance of any Certificate of Conditional Approval for any lots in this plan of subdivision, the Owner shall pay to the City Treasurer the following amounts as set out or as calculated by the City, or portions thereof as the City may from time to time determine:*
 - (i) *A sum of \$ _____ to be paid by the Owner to compensate the City to construct, inspect, monitor, maintain, and assume responsibility for the on-going operation of the methane gas barrier with a ventilation system.*

Special Provision clause 28 (av) is amended as follows:

- (av) *Within one (1) year of registration of this Plan, the Owner shall construct a 1.5m high chain link fencing, without gates, in accordance with current city park standards (SPO-4.8) or approved alternate, along the property limit interface of all private Lots and Blocks adjacent to existing and/or future Park and Open Space Blocks, being:*



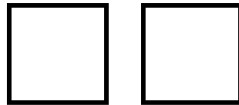
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- *the northern and eastern limits of Block 67 where it abuts Chelsea Green Park,*
- *the rear of Lots 1 to 9 both inclusive,*
- *the eastern lot lines of Lots 45, 46 and 50, and*
- *the northern lot lines of Lots 9 to 21, both inclusive; or alternatively the Owner shall install property boundary monuments, in accordance with City standards (SPO-4.7 standard reinforced concrete monument modified with lettering that reads "Private Property") along the northern lot lines of Lots 9 to 21, both inclusive.*

All fencing shall be installed to the satisfaction of the City and at no cost to the City. Any other fencing arrangements shall be to the satisfaction of the City Planner.

A new Special Provision clause 28 () is added, as follows:

- () *The Owner acknowledges and agrees that the City will not be required by the Owner or any subsequent owners to undertake any removal of the landfill material or undertake any site remediation of the City owned property adjacent and directly east of the Chelsea Green Subdivision.*



File Number: 39T-02511



September 3, 2014

Ontario Municipal Board
655 Bay Street, Suite 1500
Toronto, ON M5G 1E5

RECEIVED BY

SEP 08 2014

**CITY OF LONDON
DEVELOPMENT SERVICES**

I hereby certify that the Municipal Council, at its session held on September 2, 2014 resolved:

7. That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to entering into a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp., for the subdivisions of land over Part of Blocks A, B and C, Part of Terrace Street (Closed by By-law No. 8865-28, Inst. No. CB225), Registered Plan No. 437(C), All of Lots 1 to 12 (both inclusive), all of Block W and Part of Block R, Registered Plan No. 500 (amended by order No. EL34037), (former Township of Westminster), City of London, County of Middlesex, situated at the west limit of Terrace Street, west of Adelaide Street South:

- a) the Ontario Municipal Board BE ADVISED that the Municipal Council supports the approval of the Special Provisions as appended as Schedule "C" to the staff report dated August 26, 2014, which are to be contained in a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp., for the Chelsea Green Subdivision (39T-02511);
- b) the financing for this project BE APPROVED in accordance with the "Sources of Financing Report" appended as Schedule "A" to the staff report dated August 26, 2014;
- c) the financing for this report BE APPROVED in accordance with the "Related Costs and Revenues" appended as Schedule "B" to the staff report, dated August 26, 2014; and,
- d) the Mayor and the City Clerk BE AUTHORIZED to execute this Agreement, any amending agreements and all related documents required to fulfill its conditions;

it being noted that the Planning and Environment Committee heard a verbal presentation from R. Dykstra, Ricor Engineering and reviewed and received a communication dated August 22, 2014, from J. Novick, Ricor Engineering, with respect to this matter. (2014-D12) (7/15/PEC)

C. Saunders
City Clerk
/jb

- cc: AAR-CON Enterprises Corp., c/o R. Dykstra, Ricor Engineering, 531 Talbot Street, London, ON N6A 2S5
G. Kotsifas, Managing Director, Development and Compliance Services & Chief Building Official
P. Christiaans, Director, Development Finance
T. Grawey, Manager, Development Services and Planning Liaison
B. Henry, Manager, Development Planning
A. Dunbar, Manager III, Financial Planning and Policy
L. Mottram, Senior Planner
F. Gerrits, Subdivision and Condominium Documentation Coordinator
N. Hall, Solicitor II



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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON AUGUST 26, 2014
FROM:	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT	SPECIAL PROVISIONS AAR-CON ENTERPRISES CORP. CHELSEA GREEN SUBDIVISION (formerly Terrace Street Subdivision) 39T-02511

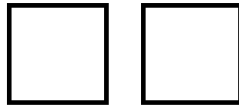
RECOMMENDATION

That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to entering into a subdivision agreement between The Corporation of the City of London and AAR-CON Enterprises Corp. for the subdivisions of land over Part of Blocks A, B and C, Part of Terrace Street (Closed by By-law No. 8865-28, Inst. No. CB225), Registered Plan No. 437(C), All of Lots 1 to 12 (both inclusive), All of Block W and Part of Block R, Registered Plan No. 500 (amended by order No. EL34037), in the former Township of Westminster, now in the City of London, County of Middlesex, situated at the west limit of Terrace Street, west of Adelaide Street South.

- (b) the Ontario Municipal Board **BE ADVISED** that London Municipal Council supports the approval of the attached Special Provisions, (Schedule "C"), which are to be contained in a Subdivision Agreement between The Corporation of the City of London and AAR-CON Enterprises Corp. for the Chelsea Green Subdivision (39T-02511);
- (c) the applicant **BE ADVISED** that the Director, Development Finance has summarized the claims and revenues to be as per Schedule "B", attached hereto,
- (d) the financing for this project **BE APPROVED** as set out in the Source of Financing Report attached hereto as Schedule "A"; and
- (e) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any amending agreements and all related documents required to fulfill its conditions;

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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June 3, 2014 – Planning and Environment Committee – Report from the Managing Director, Development and Compliance Services and Chief Building Official regarding Special Provisions for a subdivision agreement with AAR-CON Enterprises Corp. for the Chelsea Green Subdivision (formerly Terrace Street Subdivision) (File No. 39T-02511).



File Number: 39T-02511

BACKGROUND

On July 30, 2002, AAR-CON Enterprises Corp. submitted a draft plan of subdivision application for 107 single detached dwelling lots, 1 walkway block and 1 park/open space block served by the extension of Terrace Street and Brookside Street and 1 new street on 6.77 hectares of land located at 1 Terrace Street. The applicant submitted concurrent Official Plan and Zoning By-law Amendment applications to change the designation to Multi-Family, Medium Density Residential and Residential R1 (R1-13). Municipal Council supported the draft plan of subdivision, subject to conditions and red-line revisions, and the concurrent Official Plan and Zoning By-law Amendments. The City of London Subdivision Approval Authority granted draft approval to the plan as red-line amended subject to conditions on May 15, 2003.

CN Rail appealed the decision of the City of London Approval Authority. CN Rail and the applicant reached a settlement which required adding a condition of draft plan approval. The City did not object to the addition of the condition. On August 23, 2004 the Ontario Municipal Board approved the red-line amended draft plan of subdivision subject to the modified conditions.

Shortly after the draft approval was granted the City was advised that fill material was discovered over a significant portion of the draft approved plan. Studies submitted in support of the application indicated fill material (believed to be garbage) did exist on the site and that it was limited to being within the vicinity of a trunk storm sewer. The fill was reported to be used as backfill. As a result, the City and the applicant (which included Sifton Properties Limited through a joint venture) negotiated responsibility for the fill. Negotiations concluded with the City purchasing 2.647 hectares on November 14, 2008. The applicant retained the remaining 3.915 hectares.

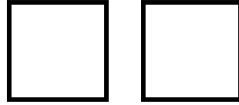
The terms of the settlement reserved to the owners the right to seek appropriate amendments from the Ontario Municipal Board to their draft approved plan. This resulted in several requests over time to the OMB to prevent the draft approval from lapsing. The Ontario Municipal Board has extended the lapse date on a number of occasions. At a hearing held on March 26, 2009 the applicant presented an amended plan of subdivision which reduced the number of residential lots from 107 to 66. At the hearing the applicant also presented a schedule for soils testing and site remediation to be conducted and a Record of Site Condition to be completed on the retained lands.

Revised draft plan conditions and a revised draft plan of subdivision were accepted and approved by the OMB in its decision issued on May 10, 2012. The draft plan shows 66 single detached dwelling lots and one (1) private open space block, served by the extension of Terrace Street and two new streets. Draft plan approval lapses on April 25, 2015. This plan of subdivision was given draft approval by the OMB which has reserved to itself the delegation of formal approval authority of the final plan of subdivision and subdivision agreement.

The anticipated reimbursements from the Fund are for the cost of replacing the existing sanitary sewer in conjunction with the Plan, at the subsidized rate contained in the By-law and at a limited estimated cost of which is \$60,000.

This subdivision shall be registered in one (1) phase, consisting of 66 single family lots and one open space block, the extension of Terrace Street and two (2) new local streets, Yvonne Crescent and Yvonne Court.

The Special Provisions for the subdivision agreement were presented in staff report to the Planning and Environment Committee on June 3, 2014. At its session held on June 10, 2014, Municipal Council referred the report back to the Civic Administration for further discussion with the applicant and report back at a future meeting of the Planning and Environment Committee.



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Staff did meet with the applicant and their engineering consultant to discuss concerns with the draft clauses in the Subdivision Agreement, and have subsequently amended a number of the conditions included in the June 3, 2014 report to PEC. A revised Schedule C – Special Provisions is attached and includes the amended Clauses 28 a), b), c), d), e), and f), respectively. These provisions address the responsibilities for installation, maintenance, and monitoring of the methane gas control system by the subdivider and future benefiting owners.

Staff did consider a proposal by the applicant to the possibility of locating the system partly on privately owned property and partly on City-owned property; however, upon further detailed review this did not appear to be a viable option. By way of correspondence received July 31, 2014, RICOR Engineering Ltd. on behalf AAR-CON Enterprises Corp. indicated the proposed revised clauses generally support their preference for the methane control system to be installed on the City-owned parkland (future Brookside Park) directly adjacent to their site, and have requested that this item be added to the PEC agenda for August 26th.

This report and Special Provisions have been prepared in consultation with the City Solicitor's Office (Geoff Belch) and Environmental and Engineering Services (Wes Abbott).

A copy of the location map and subdivision plan is attached as Schedule "D" for the information of the Committee.

RECOMMENDED BY:	REVIEWED BY:
LARRY MOTTRAM SENIOR PLANNER, DEVELOPMENT SERVICES	BRUCE HENRY MANAGER OF DEVELOPMENT PLANNING
CONCURRED BY:	SUBMITTED BY:
TERRY GRAWAY MANAGER, DEVELOPMENT SERVICES	GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL

LM/fg
Attach.
Aug 13, 2014



File Number: 39T-02511

Schedule A – Finance Report

APPENDIX 'A'

#14103

Chair and Members
 Planning and Environment Committee

May 23, 2014
 (Approve Agreement)

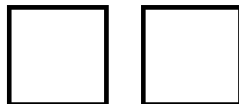
RE: Special Provisions - AAR-CON Enterprises Corp.
 Chelsea Green Subdivision (formerly Terrace Street Subdivision)
 Capital Project ES2414-13 - 2013 Sewer Replacement
 39T-02511

FINANCE REPORT ON THE SOURCES OF FINANCING:

Finance confirms that the total cost of this project can be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Managing Director, Development and Compliance Services and Chief Building Official, the detailed source of financing for this project is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Committed To Date</u>	<u>This Submission</u>	<u>Balance for Future Work</u>
Engineering	\$1,044,359	\$1,044,359		\$0
Construction	11,777,641	7,485,327	60,000	4,232,314
Construction (PDC Portion)	262,400	262,400		0
City Related Expenses	100,000	36,104		63,896
NET ESTIMATED EXPENDITURES	\$13,184,400	\$8,828,190	\$60,000	\$4,296,210
SOURCE OF FINANCING				
Capital Sewer Rates	\$430,000	\$430,000		\$0
Debenture By-Law No. W.-5544-201	\$121,000			121,000
Drawdown from Sewage Works R.F.	9,921,000	5,385,790	60,000	4,475,210
Federal Gas Tax	2,750,000	2,750,000		0
Cash Recovery from Property Owners (PDC Portion)	262,400	262,400		0
TOTAL FINANCING	\$13,484,400	\$8,828,190	\$60,000	\$4,596,210

Alan Dunbar



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Schedule B – Finance Report
Related Estimated Costs and Revenues

Estimated Costs – This Agreement	
Claims from Urban Works Reserve Fund – General	Nil
Claims from Urban Works Reserve Fund - Stormwater Management	Nil
Capital Expense – Sanitary replacement	\$60,000
Other	Nil
Total	Nil
Estimated Revenues - This Agreement (2014 rates)	
CSRF	\$1,340,526
UWRF	\$224,730
Total	\$1,565,256

1. Costs are limited to \$60,000 based on approximations provided by City of London engineering staff
2. Estimated Revenues are calculated using 2014 DC rates and may take many years to recover. The revenue estimates includes DC cost recovery for "soft services" (fire, police, parks and recreation facilities, library, growth studies). There is no comparative cost allocation in the Estimated Cost section of the report, so the reader should use caution in comparing the Cost with the Revenue section.
3. The revenues and costs in the table above are not directly comparable. This subdivision, like others in the area, also relies on recently constructed roadwork and SWM facilities, the cost of which is not reported above. Other growth related costs (like wastewater treatment plant and road capacity expansion) incurred to serve this subdivision and surrounding areas are not reported above, though the revenue for those service components is included in the "Estimated Revenues – This Agreement" section above. As a result, the revenues and costs reported above are not directly comparable. The City employs a "citywide" approach to recovery of costs of growth – any conclusions based on the summary of Estimated Costs and Revenues (above table) should be used cautiously.

Reviewed By:

Peter Christiaans
 Director, Development Finance



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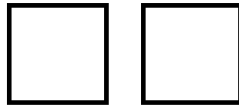
SCHEDULE C – SPECIAL PROVISIONS

28. PART II – SPECIAL PROVISIONS

The Owner shall make all payments, carry out and perform all the works and satisfy all the provisions hereinafter set out in these Special Provisions.

- (a) Prior to the issuance of any Certificates of Conditional Approval for any lots in this plan, a methane gas control system shall be installed between the lands owned by the City and the lands owned by the Owner of this plan of subdivision. An application for Environmental Compliance Approval for the system must be filed with the Ministry of the Environment and Climate Change. The design of the system must be approved by the City Engineer, and constructed and monitored in accordance with the approved design. The Owner shall obtain an easement from the City to construct the methane gas control system and be responsible for the ongoing maintenance and monitoring of the system, all to the satisfaction of and at no cost to the City.
- (b) i) Prior to the issuance of any Certificates of Conditional Approval for Lots 44, 45, 46, 47, 48, 49, and 50 in this plan, the methane gas control system between the lands owned by the City and the lands owned by the Owner of this plan of subdivision must be approved by the Ministry of the Environment and Climate Change, and must be installed and operational.
- ii) Until the system has been approved by the Ministry of the Environment and Climate Change, and has been installed and is operational, for all other lots within 30 metres of the methane gas control system (Lots 1, 42, 43, 55, 56, 57 and 58), the Owner shall conduct a bar test for methane gas at the building foundation excavation stage. Construction of any homes on these lots must incorporate methane gas monitoring systems.
- (c) The City agrees to provide the Owner and the owners of Lots 44, 45, 46, 47, 48, 49, and 50, (the “Benefiting Owners”), with an easement estimated to be approximately six (6) metres over City owned lands, (described as **Parts _____ on Plan 33R-_____**), for the purpose of installing and maintaining a methane gas control system recommended by the Owner’s professional engineer as illustrated in a drawing by EXP, dated February 2014 entitled, “Methane Gas Barrier and Collection Trench layout”, as amended from time to time, all to the satisfaction of the City, and at no expense to the City.
- The Owner acknowledges that the foregoing easement located on City property can only be accessed by the Owner or benefiting property owners with the prior written consent of the City.
- (d) Prior to the assumption of this subdivision in whole or in part by the City, the Owner shall have his professional engineer design and inspect the works recommended and supply the City with a certificate upon their completion, stating that the facilities recommended were installed and/or carried out in accordance with the recommendations. The report shall also include measures to control the migration of any methane gas to or from lands abutting this Plan.
- (e) The following warning clause shall be registered on title for Lots 44, 45, 46, 47, 48, 49, and 50, and shall be included in all Agreements of Purchase and Sale or Lease:

“The subject property has been confirmed as being in close proximity to a former landfill site. The Owner is required to have a methane gas barrier complemented with a venting system designed, constructed and monitored subject to Clause 28(a) of



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the Subdivision Agreement, between AAR-CON Enterprises Corp. and the Corporation of the City of London, dated _____, 2014 as recommended by the Owner's professional engineer and approved by the City, and that the benefiting owners must maintain the installed system or facilities in perpetuity, at no cost to the City"

- (f) Prior to assumption of this subdivision in whole or in part by the City, and as a condition of such assumption, the Owner shall pay to the City Treasurer the following accounts as set out or as calculated by the City, or portions thereof as the City may from time to time determine:
- (vi) A sum of \$54,000 to compensate the City to undertake regular or routine monitoring and minor repairs to the methane gas control system, such repairs defined for the purposes of this Agreement to be repairs in an amount not exceeding \$4,000 in any given year, for a period of 35 years,
 - (vii) The foregoing monitoring shall include regular monitoring which initially shall be at least six (6) times annually and after the first two (2) years shall be at least annually and shall include an annual report of the monitoring results to the Owner, and to benefitting or potentially affected future owners, to be delivered to the owners of Lots 44, 45, 46, 47, 48, 49, and 50 of this Plan,
 - (viii) Major repairs, including maintenance, reconstruction, re-design or repairs or excavations of the methane gas control system in an amount exceeding \$4,000 in any given year be performed by and at the sole and exclusive cost of the Owner, which is defined to be jointly and severally and to include the developer AAR-CON Enterprises Corp., and all benefitting Lot owners described as Lots 44, 45, 46, 47, 48, 49 and 50 of this Plan,
 - (ix) Notwithstanding any other provision of this Agreement the Owner and the City agree that the Owner and all benefitting Lot owners described as Lots 44, 45, 46, 47, 48, 49, and 50 of this Plan, shall be jointly and severally responsible to maintain the methane gas control system in perpetuity, at no cost to the City, at the conclusion of the foregoing 35 year period, and
 - (x) The Owner acknowledges and agrees that the City will not be required by the Owner or any subsequent owners to undertake any removal of the landfill material or undertake any site remediation of the City owned property adjacent and directly east of the Chelsea Green Subdivision.
- (g) If the Owner alleges an entitlement to any reimbursement or payment from the City's Capital Works Budget as a result of the terms hereof, the Owner may, upon approval of this Agreement, make application to the Director – Development Finance for payment of the sum alleged to be owing, and as confirmed by the City Engineer and the Director – Development Finance and the payment will be made pursuant to any policy established by Council to govern the administration of the said Capital Works Budget.

The anticipated reimbursements from the Budget are:

- For the cost of replacing the existing sanitary sewer, to the specifications of the City Engineer, from Brookside Street to proposed manhole SA9, approximately 5 metres west of the Yvonne Crescent road allowance (Wastewater and Engineering Division Budget), the estimated cost of which is \$60,000, limited to this maximum amount, upon completion of the said works. The Owner acknowledges that the City's share is based



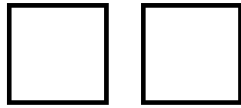
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solely on the City’s estimated cost to re-line an equivalent length of sewer.

- (h) Upon approval of an application for a claim to the City’s Capital Works Budget, the City shall pay the approved claim in full to the Owner in accordance with the then in force policies established thereunder.
- (i) Where the Owner undertakes works at their entire expense as a capital cost incurred on behalf of the City and as authorized by the City subject to a claim and the claim is made from the Urban Works Reserve Fund, the City Services Reserve Fund or the Capital Works Budget, the Owner must comply with the By-law and policies governing the administration thereof as included in the requirement of City of London By-law C.P.-1473-212 as amended (the “Development Charges By-law”). For any claim from any fund, the Owner must comply with the rules of eligibility applied under Schedule 7 Sections 1.6, 1.7, 1.8 and 1.9, of the above by-law including requirements for tendering and completeness of claims.
- (j) In the event that the Owner undertakes relotting, the Owner shall relocate all utilities, municipal services and private services as are necessary for the relotted Lots in this Plan to the specifications of the City and at the Owner’s entire expense. The City may require additional inspections by the Owner’s professional engineer and the City of London of relocated utilities, municipal services and private services, including video inspections and ball tests of sewers, as a result of the relotting of Lots in this Plan prior to the issuance of a certificate of Conditional Approval for works serving the relotted Lots. Should the amount of security held by the City at the time the Lots in this Plan are to be relotted be insufficient to cover the cost of relocation of utilities, municipal services, private services and associated works for the said relotting, then prior to the issuance of the Certificate of Conditional Approval for works serving the said relotting, the Owner shall deposit an additional amount of security with the City for the said works as determined by the City Engineer in accordance with the City’s security requirements.
- (k) The Owner shall adhere to the geotechnical engineer’s recommendation under the full time supervision of a geotechnical engineer with respect to the placement of engineering fill and the construction of utilities, roadways, driveways and buildings on areas within this Plan as identified by the geotechnical engineer (the “Affected Lands”) to ensure the satisfactory construction thereof. The Owner shall provide a geotechnical engineer’s certification to the City upon completion of the removal and/or filling that the works were carried out in accordance with the geotechnical engineer’s recommendations.

Prior to the issuance of a Certificate of Conditional Approval, the Owner shall identify to the City the Lots and Blocks within the Affected Lands and shall ensure that the specific requirements have been established by a geotechnical engineer for each Lot and Block within the Affected Lands in order to protect the proposed buildings on the said Lots and Blocks from settlement and other harmful effects.

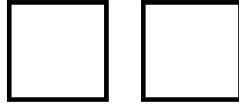
The Owner shall register against the title of each Lot and Block within the Affected Lands, and shall include in the agreement of purchase and sale and in the transfer or deed of each Lot and Block with the Affected Lands, a covenant by the purchase or transferee stating that the purchaser or transferee of the Lot or Block within the Affected Lands must adhere to the recommendations of the geotechnical engineer, and shall deliver a certificate of a geotechnical engineer to the City’s Director of Building Control upon completion of the foundation on the Lot or Block within the Affected Lands that the building construction was completed in accordance with the Owner’s geotechnical engineer’s recommendations.



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- (l) Prior to the issuance of a Certificate of Conditional Approval, the Owner shall have a qualified consultant confirm all recommendations in the hydrogeological investigation for this subdivision have been implemented with respect to the effects of the construction associated with the subdivision on existing ground water elevations, private wells in the area, the impact on the water balance of the subject plan and any potential contamination impacts that may be anticipated or experienced as a result of the said construction, to the satisfaction of the City.
- (m) The Owner agrees that no construction traffic contracted by the Owner for the construction of services for this subdivision which are to be assumed by the City, will utilize existing streets adjacent to this Plan, except as approved otherwise by the City Engineer. The Owner further agrees to restrict this construction traffic to and from this subdivision to Hayes Street (formerly Terrace Street) except as otherwise approved by the City Engineer. Barricades which may be used to restrict construction traffic during the construction of the underground services associated with the issuance of a Certificate of Conditional Approval, as identified by 9. INITIAL CONSTRUCTION OF SERVICES AND BUILDING PERMITS OF PART 1 – GENERAL PROVISIONS, may be removed with the issuance of the Certificate of Conditional Approval, unless otherwise directed by the City Engineer. Should the subdivision develop in stages as allowed by other conditions of the subdivision agreement, the Owner will reinstate the necessary construction traffic restrictions with development of each stage as each stage develops, to the satisfaction of the City Engineer.
- (n) Prior to commencing any construction on this site, the Owner shall notify the City of London Police Services of the start of construction for this Plan of Subdivision.
- (o) The Owner shall construct or install all of the following required works to the specifications of the City and in accordance with the plans accepted by the City:
- (i) a concrete sidewalk along the north boulevard of Hayes Street (formerly Terrace Street), within this Plan and external to this Plan to Brookside Street, at no cost to the City;
 - (ii) a fully serviced road connection where Hayes Street (formerly Terrace Street) in this Plan joins with Hayes Street (formerly Terrace Street) external to this Plan, including all underground services and related works;
 - (iii) construct the intersection of Brookside Street and Hayes Street (formerly Terrace Street) outside the limits of this draft plan to an all through intersection, all to the satisfaction of the City, at no cost to the City;
 - (iv) construct this closed portion of Hayes Street (formerly Terrace Street) as a fully serviced local street, to be consistent with the requirements for Hayes Street (formerly Terrace Street) within the limits of this draft plan, all to the satisfaction of the City, at no cost to the City; and
 - (v) replace the existing sanitary sewer, to the specifications of the City Engineer, from Brookside Street to proposed manhole SA9, approximately 5 metres west of the Yvonne Crescent road allowance, at the Owner's expense.

The Owner shall complete all work on the said street(s) in accordance with current City standards, procedures and policies, and restore the road(s), and ensure that adequate precautions are taken to maintain vehicular and pedestrian traffic and existing water and sewer services at all times during construction, except as approved otherwise by the City Engineer. The Owner shall provide full-time supervision by its professional engineer for all works to be constructed



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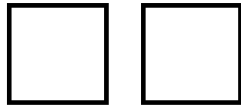
on Hayes Street (formerly Terrace Street) and Brookside Street in accordance with current City policies. Upon completion of these works, a Certificate of Completion of Works is to be supplied to the City, pursuant to the General Provisions and **Schedule 'G'** of this Agreement.

The Owner shall complete the works specified above on a schedule acceptable to the City or as otherwise specified herein. Where the Owner is required to close any City of London road section the Owner shall have available for submission to the City a Traffic Protection Plan acceptable to the City Engineer (or his/her designate), a schedule of construction for the proposed works on the above-noted street(s) and a detail of the proposed timing and duration of the said works in accordance with the Ministry of Labour and Ministry of Transportation requirements within the Ontario Traffic Manual Book 7. Further, the Owner shall obtain a Permit for Approved Works from the City prior to commencing any construction on City land or right-of-way.

Where required by the City Engineer, the Owner shall establish and maintain a Traffic Management Plan (TMP) intended to harmonize a construction project's physical requirements with the operational requirements of the City, the transportation needs of the travelling public and access concerns of area property owners in conformity with City guidelines and to the satisfaction of the City Engineer for any construction activity that will occur on existing public roadways needed to provide services for this Plan of Subdivision. The Owner's contractor(s) shall undertake the work within the prescribed operational constraints of the TMP. The TMP shall be submitted by the Owner at the time of submission of servicing drawings for this Plan of Subdivision, and shall become a requirement of the said drawings.

- (p) Prior to the construction of works on existing City streets, the Owner shall have its professional engineer notify in writing all affected property owners of all works proposed to be constructed on existing City streets in conjunction with this subdivision in accordance with the City's policy on "Guidelines for Notification to Public for Major Construction Projects".
- (q) The Owner shall construct the watermains to service the Lots and Blocks in this Plan and connect them to the City's existing water supply system, being the 200 mm (8 inch) diameter water main on Hayes Street (formerly Terrace Street), to the specifications of the City Engineer.
- (r) The Owner shall construct the watermain and water services with materials that are resistant to the effects of methane gas, such as nitrile pipe gaskets, all to the satisfaction of the City, at no cost to the City.
- (s) Prior to the issuance of any Certificates of Conditional Approval, the Owner shall have its Professional Engineer confirm water quality requirements for the watermain in this Plan and/or implement any accepted recommendations in the accepted water quality report, by the use of the following:
 - i) valving to shut off future connections which will not be used in the near term; and/or
 - ii) that the water flushed by the device is to be measured (by a water meter in a meter pit) and the cost of water charged to the Owner. Where automatic flushing devices will be used, calculations of the turnover required to maintain chlorine residual shall be provided to the City in order to justify the settings for the automatic flushing device.

all to the satisfaction of the City Engineer, at no cost to the City.



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- (t) Sewage treatment capacity at the Greenway Pollution Control Plant is available for this Plan as of May, 2014 and will be reserved by the City for this Plan provided this Plan and this Agreement are registered before June, 2015.

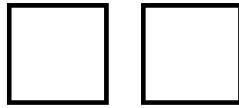
In the event that this Plan and this Agreement are not registered before June, 2015, then the reserved treatment capacity in the Plant may be forfeited in the absolute discretion of the City Engineer and in the event of such forfeiture, the Owner shall apply to the City to have sewage treatment capacity allocated to this Plan, if such capacity is available at that time.

The Owner acknowledges that sewage treatment capacity at the Greenway Pollution Control Plant must be allocated for this Plan prior to the Owner's application for building permits in this Plan.

- (u) The Owner shall construct the sanitary sewers to service the Lots and Blocks in this Plan and connect them to the City's existing sanitary sewage system being the 675 mm (27 inch) diameter trunk sanitary sewer located in the easement to be established on Lots 30 and 31 and upstream of existing manhole OS875, at no cost to the City. The sanitary sewers required in conjunction with this Plan shall be sized to accommodate all upstream lands to the specifications of the City Engineer and at no cost to the City unless otherwise specified herein.
- (v) The Owner shall replace the existing sanitary sewer, from Brookside Street to proposed manhole SA9, approximately 5 metres west of the Yvonne Crescent road allowance, at the Owner's expense, all to the specifications of the City Engineer and in accordance with the plans accepted by the City.
- (w) The Owner shall connect and direct all upstream sanitary flows to the new sanitary sewer on Hayes Street (formerly Terrace Street), at his own risk and cost, including any costs related to the by-passing of flows.
- (x) The Owner shall co-ordinate the construction of the subdivision servicing with the City's project to re-line the existing 675 mm (27 inch) sanitary sewer downstream of proposed manhole SA9. The Owner acknowledges that the City's project must be carried out during dry weather; therefore, the timing of the City's project cannot be scheduled prior to the month of May and could be impacted by wet weather conditions beyond this time.

In advance of the City's project to re-line the existing 675 mm (27") sanitary sewer, the Owner shall:

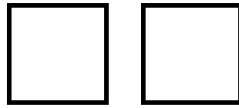
- i) notify the City's Construction Administration Division of the start date and schedule for the subdivision servicing. Upon receipt of such notice, the Construction Administration Division will tender the re-lining project. The Owner acknowledges that a minimum of 30 days will be required from the receipt of notice to the start date of the City's project;
- ii) clear the lands within this Plan to accommodate the sanitary sewer re-lining and flow by-pass equipment;
- iii) construct proposed sanitary manhole, SA9, and ensure adequate access for the re-lining equipment and vehicle(s);
- iv) ensure adequate access to existing sanitary manhole, OS874 or to manhole SA8 for the flow by-passing equipment and vehicle(s); and
- v) ensure that the area required for the re-lining and flow by-passing operations is clearly delineated and no other work is carried out in this area during the duration of the City's project.



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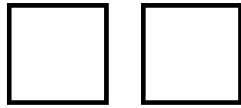
all to the satisfaction of the City Engineer.

- (y) Prior to the issuance of any Certificates of Conditional Approval for any Lots and Blocks in this Plan of Subdivision in the vicinity of the flow by-passing and re-lining operations (eg. Lots 30 and 31), the City's sanitary re-lining project must be completed and operational.
- (z) During construction, and/or as long as the existing trunk sanitary sewer is operational and functioning, the Owner shall adhere to any geotechnical recommendations which pertain to precautions and measures necessary to protect the integrity and structure of the existing 675 mm (27") trunk sanitary sewer, all to the satisfaction of the City, at no cost to the City.
- (aa) Concurrent with the registration of this Plan, the Owner shall provide a municipal services easement, a minimum of 10.0 metres wide for the existing 675 mm (27") diameter trunk sanitary sewer. The easement is to be from the west limit of the subdivision to the west property line abutting Yvonne Court (eg. over Lots 30 and 31), to the satisfaction of the City, at no cost to the City.
- (bb) The Owner shall take measures to control and prevent any inflow and infiltration and silt from entering the sanitary sewer system during the construction and to ensure that the sanitary sewer system is constructed to minimize inflow into the system, all at the Owner's expense. Quality control measures and submission of reports of these quality control measures to the City to confirm that the constructed works meet acceptable inflow and infiltration works will be required. The Owner shall also be required to take measures to prevent inflow and infiltration from entering the sanitary sewer system after construction of the sanitary sewer works, all to the satisfaction of the City Engineer and at no cost to the City. These measures shall include the following:
 - (i) Installation of plugs in the sanitary sewer system (for this draft plan) at the downstream ends of the sanitary sewer on SA5 and SA8. The plugs can be removed in conjunction with the first occupancy. These plugs may only be removed by the City of London inspectors or Operations. The Owner shall be responsible for the maintenance and cleaning or emptying of the sanitary sewer as required. The sanitary sewer must be clean and dry before the plug will be removed;
 - (ii) Flow monitoring of the sanitary sewer may be required and a record of the flows provided to the City. If the flows are in excess of theoretical flows, the Owner shall be required to pay the City for the excess flow;
 - (iii) Installation of Parson manhole inserts (or approved alternative satisfactory to the City Engineer) in all sanitary sewer manholes within this draft plan at the time of installation of the manhole. The Owner shall not remove the inserts until the sodding of the boulevards and the top lift of asphalt is completed;
 - (iv) Testing of the sanitary sewer system before commissioning shall be carried out in accordance with OPSS 407, OPSS 410 and the City of London Standard Contract Documents with respect to infiltration testing, exfiltration testing and low pressure air testing. The Owner shall have its professional engineer provide a report of the test results to the City;
 - (v) Ensure that during the construction on private property of this phase of subdivision, practices which contravene City of London by-laws and allow stormwater and sediment to enter the sanitary sewer system are prevented; and



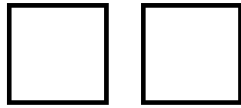
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- (vi) On demand by the City of London and within 48 hours thereof, plug any sanitary private drain connections of lots which are vacant or not occupied within this subdivision in order to prevent practices which contravene City of London by-laws and allow excessive levels of inflow and infiltration and sediment to enter the sanitary sewer system. The restoration of the private drain connection will be at the sole cost of the Owner and may be made only at the time of or immediately prior to the occupancy of that lot; and
- (ab) The Owner shall permit the City to undertake smoke testing or other testing of connections to the sanitary sewer to ensure that there are no connections which would permit inflow and infiltration into the sanitary sewer. The City may require smoke testing to be undertaken until such time as the sewer is assumed by the City.
- (ac) The Owner shall construct the storm sewers to service the Lots and Blocks in this Plan, which is located in the Central Thames Subwatershed, and connect them to the City's existing storm sewer system being the existing 250 mm (10 inch) diameter storm sewer on Hayes Street (formerly Terrace Street) outletting to the Thames River and that the maximum allowable minor storm flow rate from the subject lands to the Dayus Creek trunk storm sewer is 100 litres per second as per section 10.2.3. of the accepted Dayus Creek Municipal Class Environmental Assessment.
- (ad) The Owner shall implement and monitor all erosion and sediment control measures, in accordance with the erosion and sediment control measures accepted by the City in the Functional SWM Report, to be used during construction and implementation of the plan satisfactory to the City. The Owner shall correct any deficiencies of the erosion and sediment control measures forthwith.
- (ae) The Owner shall provide a security in the amount of \$60,000 for this Plan to ensure that the Erosion and Sediment Control Plan (ESCP) be executed in accordance with the City Engineer approval procedure and criteria. In the event of failure to properly implement and maintain the require ESCP, the ESCP security will be used to undertake all necessary clean-up work, all to the satisfaction of the City.
- (af) The Owner shall have its consulting professional engineer supervise the construction of the stormwater servicing works, including any temporary works to the satisfaction of the City and according to the recommendations and requirements of the following:
 - (i) The SWM criteria and environmental targets for the Central Thames River Study;
 - (ii) The accepted Dayus Creek Municipal Class EA (2013) for storm drainage and stormwater management remediation servicing works and all applicable addendums;
 - (iii) The approved Storm/Drainage and SWM Servicing Functional Report and plans for the subject lands and any addendums/amendments;
 - (iv) The Stormwater Letter/Report of Confirmation for the subject development prepared and accepted in accordance with the file manager process;
 - (v) The City's Waste Discharge and Drainage By-laws, lot grading standards, policies, requirements and practices;



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- (vi) The City of London Design Specifications and Requirements Manual, as revised;
 - (vii) The Ministry of the Environment SWM Practices Planning and Design Manual (2003); and
 - (viii) Applicable Acts, Policies, Guidelines, Standards and Requirements of all required approval agencies.
- (ag) Prior to the issuance of any Certificate of Conditional Approval for this subdivision or as otherwise approved by the City Engineer, all relevant storm/drainage and SWM servicing works, including major and minor storm flow routes, for the subject lands must be completed and operational, in accordance with approved design criteria and accepted drawings, all to the specifications and satisfaction of the City.
- (ah) The Owner shall provide all adequate easements, if required, at no cost to the City, in relation to stormwater/drainage and SWM servicing works of the subject lands, all to the satisfaction of the City Engineer.
- (ai) The Owner shall address forthwith any deficiencies of the stormwater works, all to the satisfaction of the City Engineer and at no cost to the City.
- (aj) Prior to assumption, the Owner shall operate, monitor and maintain the stormwater works, all to the satisfaction of the City Engineer, and at no cost to the City.
- (ak) The Owner's consulting engineer shall certify the development has been designed such that increased and accelerated stormwater runoff from this subdivision will not cause damage to downstream lands, properties or structures beyond the limits of this subdivision. Notwithstanding any requirements of, or any approval given by the City, the Owner shall indemnify the City against any damage or claim for damages arising out of or alleged to have arisen out of such increased or accelerated stormwater runoff from this subdivision.
- (al) The Owner shall implement SWM Best Management Practices (BMP's) within this Plan, where possible, to the satisfaction of the City Engineer. The acceptance of these measures by the City will be subject to the presence of adequate geotechnical conditions within this Plan and the approval of the City Engineer.
- (am) If there is known contamination on the site or contamination is encountered on this site, the Owner shall report any contamination encountered during construction or anything suspected as such, to the City Engineer, and, in this event, the Owner shall hire a geotechnical engineer to provide, in accordance with the Ministry of the Environment "Guidelines for Use at Contaminated Sites in Ontario", "**Schedule A** – Record of Site Condition", as amended, including "Affidavit of Consultant" which summarizes the site assessment and restoration activities carried out at a contaminated site. The City may require a copy of the report should there be City property adjacent to the contamination.
- (an) The Owner shall remove and dispose of any garbage or contamination, if encountered during construction of services, roads, buildings and structures in this Plan, including during construction with the existing Hayes Street (formerly Terrace Street) road allowance, all to the satisfaction of the City, all at its own cost. The Owner shall also remediate all affected areas, all to the satisfaction of the City, at no cost to the City. The Owner shall undertake any remediation measures recommended by its professional engineer at the limit of the right-of-way to protect future works undertaken within the right-of-way, all at no cost to the City. Prior to the issuance of any Certificate of Conditional Approval, the



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Owner's professional engineer shall provide to the City, certification that all recommended remediation measures have been installed in accordance with good engineering practices. Furthermore, in the event that garbage or contamination is encountered in the right-of-way below any excavation required to construct the work, the garbage or contamination shall be removed to soils satisfactory to a geotechnical engineer and approved engineered fill used to restore the necessary elevations all to the satisfaction of the City, at no cost to the City.

- (ao) Prior to the issuance of any Certificate of Conditional Approval, the Owner shall provide satisfactory evidence that the Record of Site Conditions includes all residential Lots and streets.

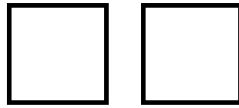
The Owner shall register on title of all Lots and Blocks, and shall include the following clause in all Offers of Purchase and Sale or Lease:

"The subject property was previously used for Industrial purposes. A Record of its Condition was carried out in accordance with Ministry of the Environment protocols on all future residential lots and streets in order to ensure the lands are acceptable for residential use. The City of London assumes no responsibility for the condition of the site. Abutting non-residential lands did not undergo the Record of Site Condition process and may not be considered suitable for residential use."

- (ap) The Owner agrees that if, during the building or constructing of any buildings or works and services within this subdivision, any deposits of organic materials or refuse are encountered, these deposits must be reported to the City Engineer and / Managing Director, Development and Compliance Services and Chief Building Official immediately, and if required by the City Engineer/ Managing Director, Development and Compliance Services and Chief Building Official, the Owner will, at his expense, retain a Professional Engineer competent in the field of methane gas to investigate these deposits and to submit a full report on them to the City Engineer/Managing Director, Development and Compliance Services and Chief Building Official. If the report indicate the presence of methane gas, then all of the recommendations of the engineer contained in any such report submitted to the City Engineer and Managing Director, Development and Compliance Services and Chief Building Official shall be implemented and carried out under the supervision of the Professional Engineer, to the satisfaction of the City Engineer/Managing Director, Development and Compliance Services and Chief Building Official and at the expense of the Owner, before any construction progresses in such an instance. The report shall include provision for an ongoing methane gas monitoring program, if required, subject to the approval of the City for review for the duration of the approved program.

If a permanent venting system or facility is recommended in the report, the Owner further agrees to register against the title of each affected Lot and include in the agreement of sale for the conveyance or transfer of each of the affected Lots, a covenant by the purchaser or transferee (and by each successive Owner after such purchaser or transferee) stating that the Owners of the subject Lots must have the required system or facility designed, constructed and monitored to the specifications of the City, and that the Owner must maintain the installed system or facilities in perpetuity at no cost to the City. The report shall also include measures to control the migration of any methane gas to abutting lands outside the Plan.

- (aq) Prior to the issuance of any Certificates of Conditional Approval, the Owner shall have their qualified consultant certify that the recommendations contained in the Owner's consultant's report entitled "Sampling and Action Plan, 1 Terrace Street London, Ontario" dated June 22, 2012, as accepted by the Ontario Municipal



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Board, have been implemented with respect to the processes to occur on the site during construction, and any potential contamination impacts that may be anticipated or experienced as a result of the said development construction.

- (ar) The Owner shall provide adequate temporary measures, if necessary, such as easements, catchbasins, grading, erosion and sediment control measures, etc. to address any grading or drainage issues that may arise along the boundary of this Plan.
- (as) The Owner shall remove any temporary works when no longer required and restore the land, at no cost to the City, to the specifications and satisfaction of the City.
- (at) The Owner shall not grade into any open space lands, unless otherwise approved by the City. In instances where this is not practical or desirable, any grading and restoration in the open space lands shall be completed to the satisfaction of the City Planner.
- (au) Within one (1) year of registration of this Plan, the Owner shall install material capable of supporting maintenance equipment to the satisfaction of the City in Block 67 where Block 67 has a width of 4.0 metres. In addition, the Owner shall install a 1.5 metre high chain link fence, without gates, or alternative to the satisfaction of the City, along the side lot line of Lots 19 and 20 where it abuts Block 67. The material to support maintenance equipment and the fencing shall be at no cost to the City.
- (av) Within one (1) year of registration of this Plan, the Owner shall construct a 1.5m high chain link fencing, without gates, in accordance with current city park standards (SPO-4.8) or approved alternate, along the property limit interface of all private Lots and Blocks adjacent to existing and/or future Park and Open Space Blocks, being:
- the northern and eastern limits of Block 67 where it abuts Chelsea Green Park,
 - the rear of Lots 1 to 9 both inclusive,
 - the eastern lot lines of Lots 45, 46 and 50, and
 - the northern lot lines of Lots 9 to 21, both inclusive.

All fencing shall be installed to the satisfaction of the City and at no cost to the City. Any other fencing arrangements shall be to the satisfaction of the City Planner.

- (aw) Prior to the issuance of Certificate of Conditional Approval, the Owner shall construct a 1.83 metre high chain link fence without gates along the common property lines of the CN Railway and the rear property lines of Lots 22 to 41, both inclusive and Block 67, all at no expense to the City and all to the satisfaction of CN Rail and the City.

Furthermore, the Owner shall include a covenant running with the lands, giving notice to all purchasers of the Lots and Block, that it is the property owner's obligation to maintain and repair the fence, at their own expense.

- (ax) Within one (1) year of registration of this Plan, the Owner shall prepare and deliver to all homeowners adjacent to the open space, an education package which explains the stewardship of natural areas, the value of existing tree cover, and the protection and utilization of the grading and drainage pattern on these lots. The education package shall be prepared to the satisfaction of City.
- (ay) The following warning clauses shall registered on title and shall be include in all



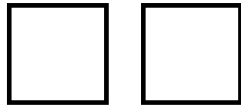
File Number: 39T-02511

Agreements of Purchase and Sale or Lease for all Lots within this Plan:

“Purchasers are advised that despite the inclusion of noise control measures within the subdivision and within the individual building unit, noise levels may continue to be of concern, occasionally interfering with some activities of the dwelling occupants. There may be alterations to or expansions of the Rail facilities on such right-of-way in the future including the possibility that the Railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the subdivision and individual dwellings; and the Railway will not be responsible for any complaints or claims arising from the use of its facilities and/or operations.”

“Warning to Solicitors: Solicitors are advised to stress the importance of the above noted warning clause when advising their clients on the purchase of units in the subdivision.”

- (az) The Owner shall include in any application for building permits for Lots 21 to 43 inclusive that forced air heating system and ducting sized to accommodate central air conditioning will be installed.
- (ba) The following warning clauses shall be registered on title and shall be include in all Agreements of Purchase and Sale or Lease for Lots 21 to 43 inclusive:
- “This dwelling unit has been fitted with a forced air heating system and the ducting etc., was sized to accommodate central air conditioning. Installation of central air conditioning will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the criteria of the Municipality and the Ministry of the Environment.”
- (Note: The location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with criteria of MOE publication NPC-216, Residential Air Conditioning Devices)
- (bb) The Owner shall include in any application for building permits for Lots 22 to 41 inclusive that buildings will be constructed with brick exterior walls from the foundation to the rafters.
- (bc) Prior to the issuance of a Certificate of Conditional Approval, the Owner shall construct an earthen berm to a minimum height of 2.0 metres above grade at the property line of Lots 21 to 42 both inclusive having slopes no steeper than 2.5 to 1. The berm shall be adjoining and parallel to the railway right-of-way.
- (bd) The Owner shall register the following warning clause on title and shall be include in all Agreements of Purchase and Sale or Lease for Lots 22 to 41 inclusive:
- “The earthen safety berm and fencing are not to be tampered with or altered, and the owner shall have sole responsibility for maintaining these features in accordance with the approved plan and/or provision or set of provisions included in the subdivision agreement.”



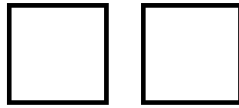
File Number: 39T-02511

- (be) The Owner shall erect and maintain a warning sign adjacent to the subdivision sign containing the following information:
- a) identifying the Lots or Blocks that have been identified by the noise and vibration studies which may experience noise and vibration impacts;
 - b) identifying the type and location of the acoustical and safety (chain-link) fencing; and,
 - c) contains a statement that CN Rail operates on a 24 hour a day basis.

The warning sign can be in text form or a combination of text/sketch form. The sign must be maintained by the owner and may only be removed after building permits for 70 percent of the lots in the subdivision have been issued.

- (bf) Prior to any site alteration, or development, the Owner shall implement recommendations identified in the approved Tree Preservation Plan, (dated February 2013), to the satisfaction of the City Planner.

- (bg) The Owner shall construct the driveways for each Lot or Block in compliance with the approved on street parking plan for this subdivision, attached as **Schedule "N"** to this Agreement and in compliance with the City's Zoning By-law. Prior to assumption of the subdivision by the City, the Owner shall have its Consulting Engineer/Surveyor certify for each Lot or Block to the satisfaction of the Managing Director, Development & Compliance Services and Chief Building Official that the location and width of the as built driveways complies with the approved parking plan and is in compliance with the City's Zoning By-law. Further, the Owner shall rectify any deficiencies identified by the Consulting Engineer/Surveyor at no costs to the City.



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SCHEDULE 'C'

This is Schedule 'C' to the Subdivision Agreement dated _____ between The Corporation of the City of London and Aar-Con Enterprises Corp. to which it is attached and forms a part.

SPECIAL WORKS AND SERVICES**Roadways**

- Hayes Street (formerly Terrace Street) shall have a minimum road pavement width (excluding gutters) of 8.0 metres (26.2') with a minimum road allowance of 20.0 metres (66').
- Yvonne Crescent shall have a minimum road pavement width (excluding gutters) of 7.0 metres (23') with a minimum road allowance of 19 metres (62')
- Yvonne Court shall have a minimum road pavement width (excluding gutters) of 6.0 metres (19.7') with a minimum road allowance of 18 metres (60')

Sidewalks

A 1.5 metre (5 foot) sidewalk shall be constructed on one side of

- (i) Hayes Street (formerly Terrace Street) along the north boulevard of Hayes Street (formerly Terrace Street), within this Plan and external to this Plan to the existing sidewalk on Hayes Street (formerly Terrace Street) east of Brookside Street;
- (ii) Yvonne Crescent – outside boulevard

Pedestrian Walkways

There are no walkways within this Plan of subdivision.



File Number: 39T-02511

SCHEDULE 'D'

This is Schedule 'D' to the Subdivision Agreement dated this _____ day of _____, 2014, between the Corporation of the City of London and Aar-Con Enterprises Corp. to which it is attached and forms a part.

Prior to the Approval Authority granting final approval of this Plan, the Owner shall transfer to the City, all external lands as prescribed herein. Furthermore, within thirty (30) days of registration of this Plan, the Owner shall further transfer all lands within this Plan to the City.

LANDS TO BE CONVEYED TO THE CITY OF LONDON:

0.3 metre (one foot) reserves: NIL

Road Widening (Dedicated on the face of the plan): NIL

Walkways: NIL

5% Parkland Dedication: NIL

Dedication of land for Parks in excess of 5%: NIL

Stormwater Management: NIL

LANDS TO BE SET ASIDE FOR SCHOOL SITE:

School Site: NIL



File Number: 39T-02511

SCHEDULE 'E'

This is Schedule 'E' to the subdivision Agreement dated _____ between The Corporation of the City of London and Aar-Con Enterprises Corp. to which it is attached and forms a part.

The total value of security to be supplied to the City is as follows:

CASH PORTION:	\$ 208,837 **
BOND PORTION:	\$1,034,089
TOTAL	\$1,242,926**

- (a) The following security shall be deposited with the City Treasurer at the time of signing this Agreement:

CASH PORTION:	\$ 208,837 **
BOND PORTION:	NIL

- (b) The following security shall be deposited with the City Treasurer, before the issuance of a Certificate of Conditional Approval respecting land within this subdivision:

CASH PORTION:	NIL
BOND PORTION:	\$1,034,089

**** Includes \$60,000 for Erosion and Sediment Control Plan security as per Clause 28(ae)**

The security shall be supplied to the city in accordance with the policy adopted by the City Council on April 6, 1987, when it approved Clause 15 of the 11th Report of the Planning Committee, and its amendments.

Please refer to Section 9. Initial Construction of Services and Building Permits of Part 1 – General Provisions, which may limit the issuance of a building permit until the security requirements have been satisfied.

The above-noted security includes a statutory holdback calculated in accordance with the Provincial legislation, namely the CONSTRUCTION LIEN ACT, R.S.O. 1990.



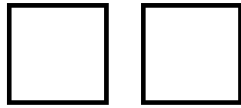
File Number: 39T-02511

SCHEDULE 'F'

This is Schedule 'F' to the Subdivision Agreement dated this _____ between The Corporation of the City of London and Aar-Con Enterprises Corp., to which it is attached and forms a part.

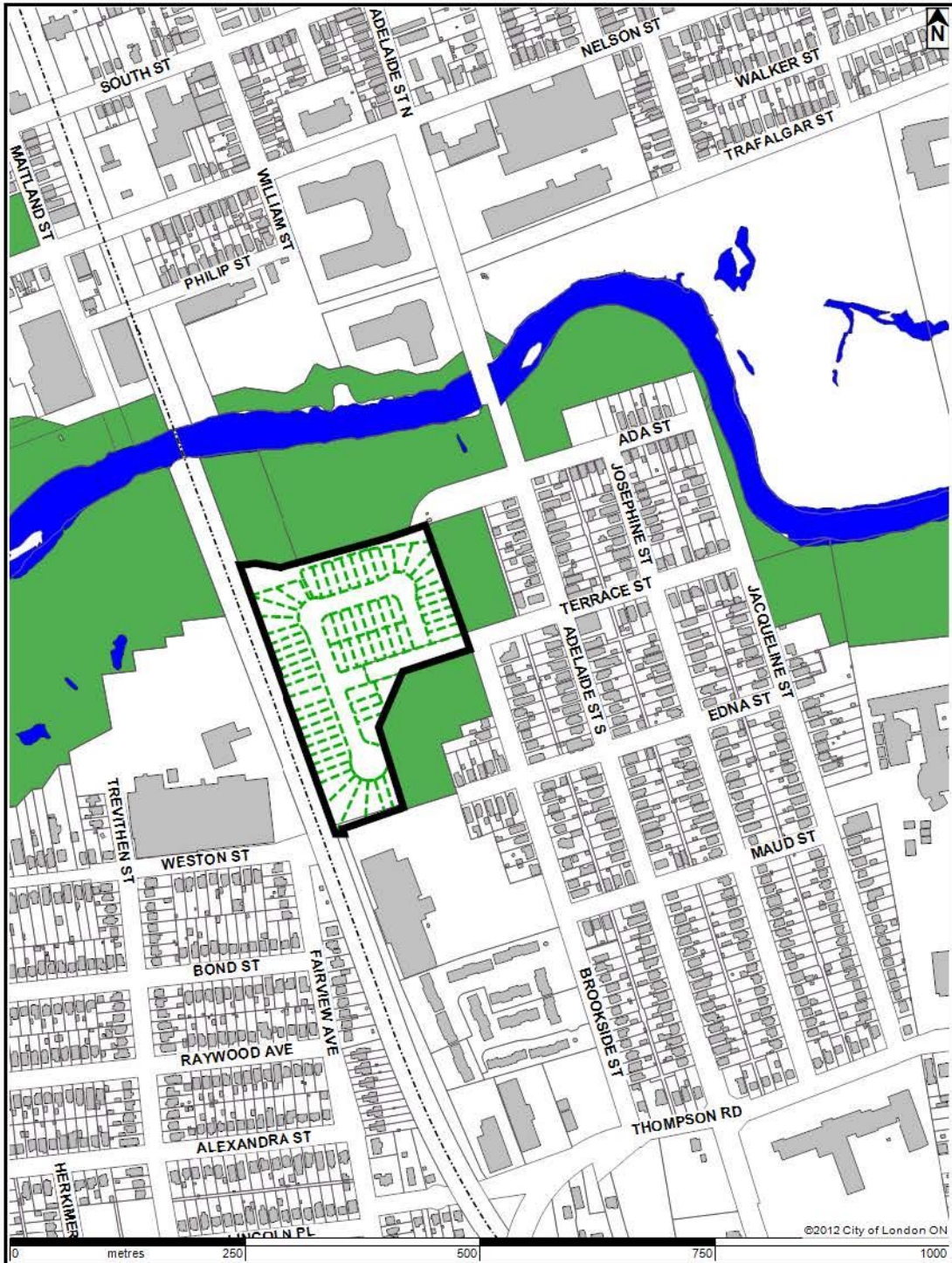
Multi-Purpose Easements

- (a) Multi-purpose easements for servicing including an easement for sanitary servicing shall be deeded to the City in conjunction with this Plan, within this Plan, on an alignment and of sufficient width acceptable to the City Engineer as follows:
 - (i) 10.0 metres in width between Lots 30 and 31 for sanitary servicing and from the rear lot line to the front line.



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SCHEDULE 'D'



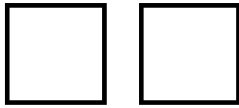
LOCATION MAP

Subject Site: 1 Terrace St
 Applicant: Whitney Engineering Inc.
 File Number: 39T-02511
 Planner: Larry Mottram
 Created By: Frank Gerrits
 Date: 2012-10-01
 Scale: 1:5000

Corporation of the City of London
 Prepared By: Planning and Development

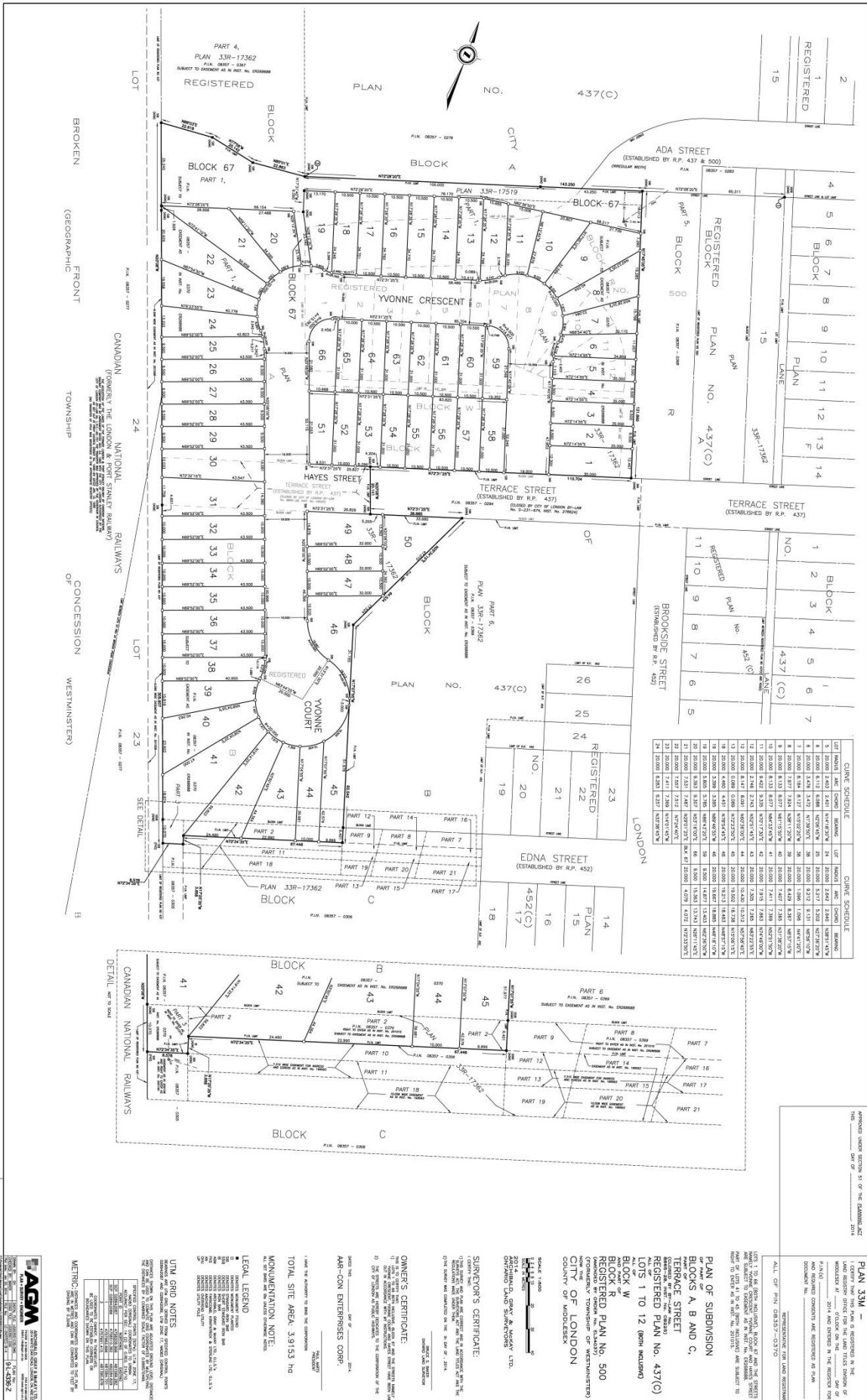
LEGEND

- Subject Site
- Parks
- Assessment Parcels
- Buildings
- Address Numbers



File Number: 39T-02511

SCHEDULE 'D'



CLIQUE SCHEDULE	CLIQUE SCHEDULE
LOT NUMBER AND CORNER	LOT NUMBER AND CORNER
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PLAN 33W
 I HEREBY HAVE THIS PLAN REGISTERED IN THE
 REGISTER OF THE CITY OF LONDON, ON THE
 20th DAY OF MARCH 2014
 AND ORDERED BY THE REGISTER FOR
 THE CITY OF LONDON
 THE REGISTER CONTAINS THE REGISTERED PLAN
 NUMBER NO. 437(C)
 REGISTERED LOT AND REGISTERED
 AREA OF THIS PLAN (C.A.S. 33W) - 437(C)

PLAN OF SUBDIVISION
 BLOCKS A, B AND C,
 TERRACE STREET
 REGISTERED PLAN NO. 437(C)
 LOTS 1 TO 12 (99th INCLUSIVE)

OWNER'S CERTIFICATE:
 I, THE UNDERSIGNED, OWNER OF THE REGISTERED
 PLAN NO. 437(C) AND THE REGISTERED
 AREA OF THIS PLAN (C.A.S. 33W) - 437(C),
 DO HEREBY CERTIFY THAT THE INFORMATION
 CONTAINED IN THIS PLAN IS TRUE AND
 CORRECT AND THAT I AM THE OWNER OF THE
 REGISTERED AREA OF THIS PLAN (C.A.S. 33W) - 437(C).

SUBDIVISION'S CERTIFICATE:
 I, THE UNDERSIGNED, REGISTERED SURVEYOR,
 DO HEREBY CERTIFY THAT I AM A REGISTERED
 SURVEYOR AND THAT I AM THE REGISTERED
 SURVEYOR OF THIS PLAN AND THAT I AM
 THE REGISTERED SURVEYOR OF THIS PLAN
 AND THAT I AM THE REGISTERED SURVEYOR
 OF THIS PLAN AND THAT I AM THE REGISTERED
 SURVEYOR OF THIS PLAN.

LEGAL LEGEND
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AGM
 AGRICULTURAL GENERAL MANAGERS LTD.
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