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39T-12501/Z-8007  
L. Mottram

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES &amp; CHIEF BUILDING OFFICIAL</b>
<b>SUBJECT:</b>	<b>APEALS TO THE ONTARIO MUNICIPAL BOARD APPLICANT/APPELLANT: DREWLO HOLDINGS INC. LOCATION: 130, 136, 146, &amp; 164 POND MILLS ROAD, AND 925 DEVERON CRESCENT  PUBLIC MEETING ON FEBRUARY 1, 2016</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Manager of Development Services and Planning Liaison, in response to appeals to the Ontario Municipal Board, dated September 23, 2015, submitted by Alan Patton of Patton Cormier Ferreira on behalf of Drewlo Holdings Inc. (attached) on the basis of a non-decision by the City of London Approval Authority within 180 days relating to a draft plan of subdivision application; and a non-decision by Municipal Council within 120 days relating to a zoning by-law amendment application concerning lands located at 130, 136, 146, & 164 Pond Mills Road, and 925 Deveron Crescent:

- a) the Ontario Municipal Board **BE ADVISED** that Municipal Council does not support draft approval of the proposed plan of subdivision, submitted by Drewlo Holdings Inc. (File No. 39T-12501), which shows 133 single detached lots, 2 future multi-family residential blocks, 1 future development block, 1 open space block, 2 new local streets, and 1 secondary collector road connecting Deveron Crescent from Shelborne Street to Pond Mills Road along an existing public road allowance known as Centre Street, for the following reasons:
  - i) An accepted Environmental Impact Study is required in order to demonstrate that there will be no negative impacts on the natural features or their ecological functions;
  - ii) Without an accepted EIS to confirm the limits of development it is not possible to recommend red-line revisions to the proposed draft plan, and conditions of draft approval cannot be formulated until such time as this has been resolved;
  - iii) Conditions of draft approval cannot be formulated until the location of the proposed sanitary sewer and stormwater sewer outlets, and the proposed method of trenchless construction, have been confirmed;
  - iv) The proposed plan of subdivision is not consistent with the Natural Heritage policies in Section 15 and the Servicing policies in Section 17 of the Official Plan;
  - v) The proposed plan of subdivision is not consistent with the provisions in Sections 1.6 and 2.1 of the Provincial Policy Statement, and Section 3 of the *Planning Act*; and
  - vi) The plan, as proposed, does not implement the Urban Design principles in Section 11 of the Official Plan or the Placemaking Guidelines adopted pursuant to the Section 19.2 of the Official Plan.
  
- b) the Ontario Municipal Board **BE ADVISED** that Municipal Council recommends that the request to amend Zoning By-law Z.-1 to change the zoning of the subject lands **FROM** a Residential R1/Neighbourhood Facility (R1-6/NF) Zone, a Residential R5/Residential R8 (R5-4/R8-4) Zone, a Convenience Commercial (CC) Zone, and an Open Space (OS4)

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Zone **TO** a Residential R1 (R1-1) zone to permit single detached dwellings on lots with a minimum lot frontage of 9.0 metres and minimum lot area of 250 square metres; a Residential R5 (R5-2 and R5-7) zone to permit townhouses and stacked townhouses up to a maximum density of 30 units per hectare and maximum height of 12 metres under the R5-2 zone, and to permit townhouses and stacked townhouses up to a maximum density of 60 units per hectare and maximum height of 12 metres under the R5-7 zone; an Open Space (OS4) zone to permit such uses as conservation lands, conservation works, public and private parks without structures, and golf courses without structures; and an Urban Reserve (UR1) zone to permit such uses as existing dwellings, agricultural uses, conservation lands, managed woodlot, wayside pit and passive recreation uses, **BE REFUSED** for the following reasons:

- i) Without an accepted EIS to confirm the limits of development and the zone boundaries, it is not possible to recommend approval of the requested zoning by-law amendment; and
  - ii) It has not been demonstrated that the requested zoning conforms with the Official Plan and is consistent with Provincial Policy Statement.
- c) the City Solicitor and Managing Director of Development & Compliance Services and Chief Building Official **BE DIRECTED** to provide legal, planning and engineering representation at the Ontario Municipal Board hearing to support the position of Municipal Council.

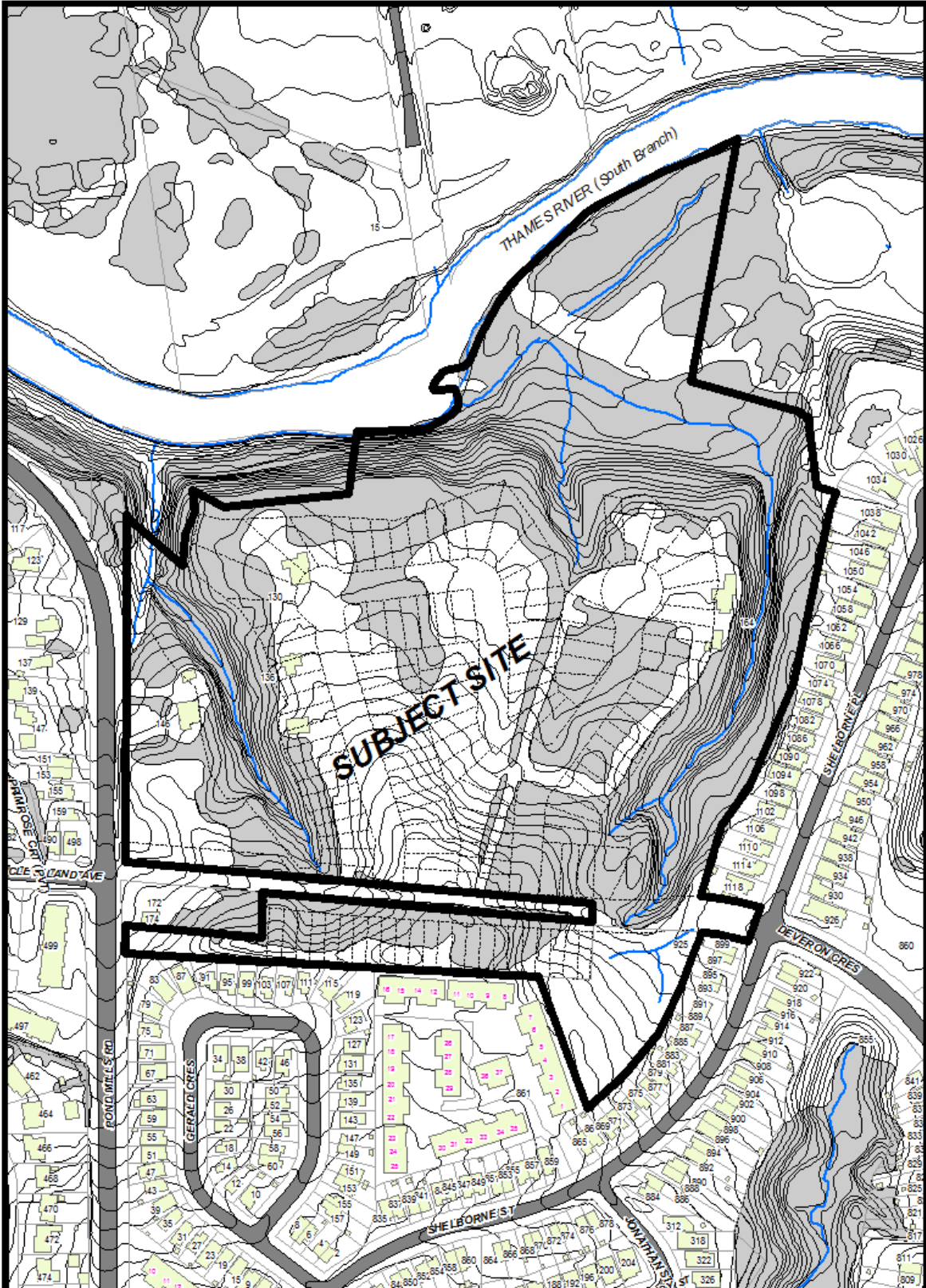
**PURPOSE AND EFFECT OF RECOMMENDED ACTION**

This report has been prepared to establish a Municipal Council position in response to appeals from Drewlo Holdings Inc. on a lack of decision by Council regarding a Zoning By-law amendment application; and lack of decision by the Approval Authority regarding an application for subdivision approval. It is also the purpose of this report to seek direction from Municipal Council to support its position through legal, planning, and engineering representation before the Ontario Municipal Board.

Since a public meeting has not previously been held with respect to the plan of subdivision and Zoning By-law amendment applications, this matter has been advertised to provide an opportunity for input from members of the public. However, since the application is under appeal to the Ontario Municipal Board, this is not a statutory public meeting under the *Planning Act*. Any comments received at the public meeting may be provided to the Ontario Municipal Board, together with the position of Municipal Council.

As a result of the appeal, jurisdiction of the Approval Authority and Municipal Council to make decisions has been removed and the matter is now before the Board. A hearing date has not yet been scheduled.

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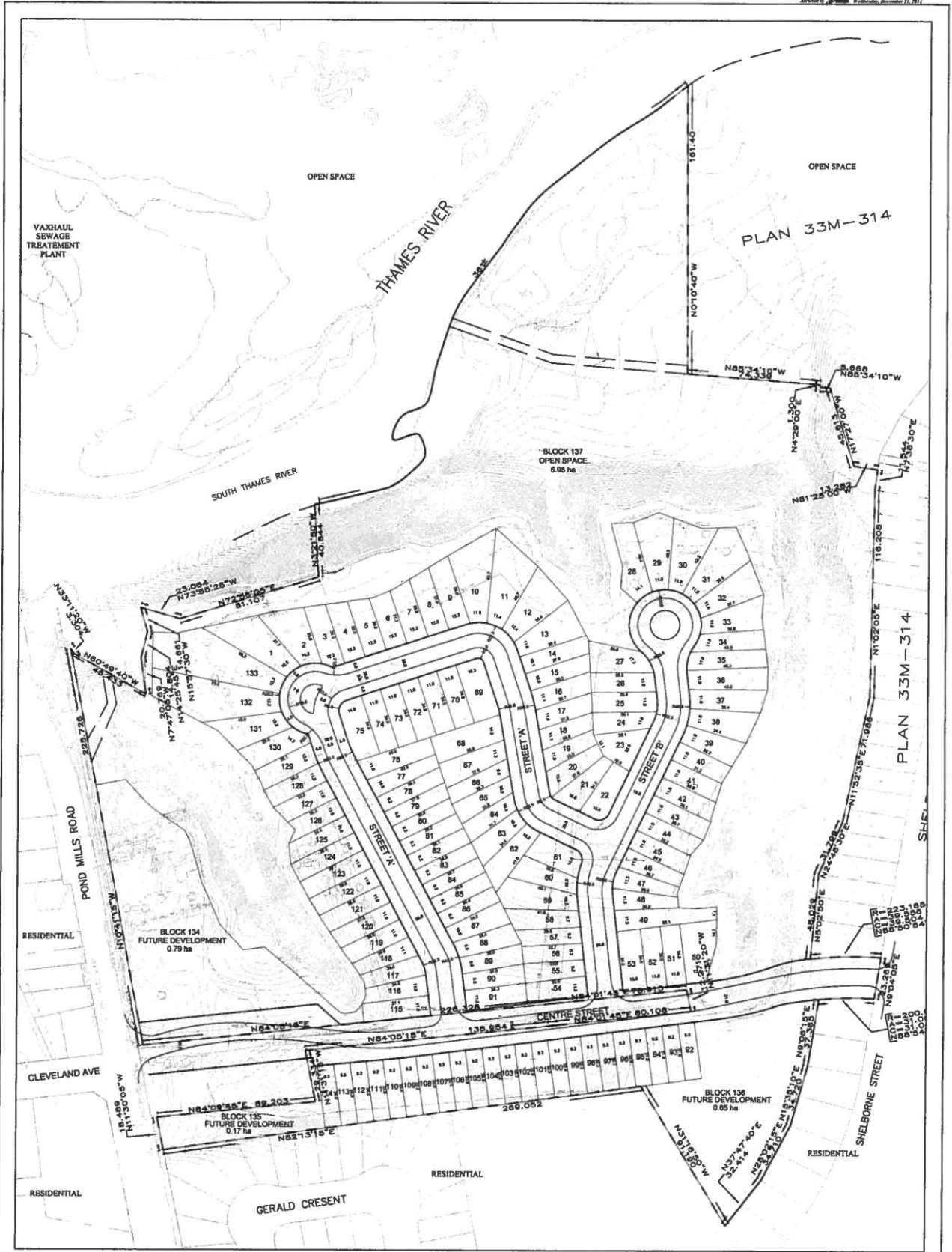


<p style="text-align: center;"><b>LOCATION MAP</b></p> <p style="text-align: center;"><b>CITY OF LONDON</b></p> <p style="font-size: small; text-align: center;">Topographic Information Date: April 2011 PREPARED BY: Development Resources &amp; Policy</p>	<p><b>Legend</b></p> <ul style="list-style-type: none"> <li>----- UNDER REVIEW SUBDIVISIONS</li> <li>□ ASSESSMENT PARCELS</li> <li>■ BUILDINGS</li> <li>■ ROADS</li> <li>■ VEGETATION</li> <li>— WATER</li> </ul>	<div style="text-align: center;"> </div> <p><b>SUBJECT SITE:</b> <b>130, 136, 146, 164 Pond Mills Rd</b> <b>925 Deveron Cres</b></p> <p><b>FILE NO:</b> <b>39T-12501</b></p> <p><b>MAP PREPARED:</b> <b>January 30, 2012</b>      <b>DT</b></p> <p style="text-align: center;"><b>1:3,000</b></p> <p style="text-align: center; font-size: x-small;">0 15 30 60 Metres</p>
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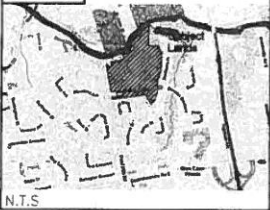
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KEY PLAN



**DRAFT PLAN OF SUBDIVISION**

PLAN 284 FT LOTS 1 & 7 CON BP FT LOTS 17 & 18 RP 238888 PARTS 1, 26 & 28 FT PARTS 31, 32, 33 & 41  
(CITY OF LONDON)  
MUNICIPALITY OF MIDDLESEX  
PROVINCE OF ONTARIO

NO.	REVISION	DATE	INITIAL
1	Create Drawing	Jun 11	CX

INFORMATION REQUIRED UNDER SECTION 51 (17) OF THE PLANNING ACT

- A) As shown
- B) As shown
- C) As shown
- D) As shown below
- E) As shown
- F) As shown
- G) As shown
- H) Municipal water supply available
- I) Safety sill
- J) As shown
- K) All municipal services to be available
- L) As shown

PROPOSED LAND USES AND AREAS

SINGLE DETACHED RESIDENTIAL (LOTS 1-133)	6.81 ha
FUTURE DEVELOPMENT (BLOCKS 134-138)	1.81 ha
OPEN SPACE (BLOCK 137) ROAD	8.85 ha
	1.98 ha
<b>TOTAL SITE AREA</b>	<b>18.15 ha</b>

OWNER'S CERTIFICATE

DREWLO HOLDINGS LTD  
HEREBY CONSENTS TO THE FILING OF THIS PLAN IN DRAFT FORM  
*Deborah* 12/21/11

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY SHOWN ON THIS PLAN.  
*[Signature]* 12/21/11



218 Midland Road, London, Ontario N6C 4H4  
Tel: (519) 454-7727 Fax: (519) 474-2264 e-mail: zpl@zpl.com  
DRAWN BY: CK PROJECT NO: DRWLON08-01  
DATE: JUNE 2011 SCALE: 1:1000

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<b>APPLICATION</b>	
<b>Application Accepted:</b> January 11, 2012	<b>Applicant:</b> Drewlo Holdings Inc. <b>Agent:</b> Zelinka Priamo Ltd.
<p><b>REQUESTED ACTION:</b></p> <p><b>Draft Plan of Subdivision Application:</b> Consideration of draft plan of subdivision with 133 single detached lots, 2 future multi-family residential blocks (Blocks 134 &amp; 136), 1 future development block (Block 135), 1 open space block (Block 137), 2 new local streets, and 1 secondary collector road connecting Deveron Crescent from Shelborne Street to Pond Mills Road along an existing public road allowance known as Centre Street.</p> <p><b>Zoning By-law Amendment Application:</b> An amendment to Zoning By-law Z.-1 to change the zoning <b>from</b> a Residential R1/Neighbourhood Facility (R1-6/NF) Zone, a Residential R5/Residential R8 (R5-4/R8-4) Zone, a Convenience Commercial (CC) Zone, and an Open Space (OS4) Zone <b>to</b> a Residential R1 (R1-1) zone to permit single detached dwellings on lots with a minimum lot frontage of 9.0 metres and minimum lot area of 250 square metres; a Residential R5 (R5-2 and R5-7) zone to permit townhouses and stacked townhouses up to a maximum density of 30 units per hectare and maximum height of 12 metres under the R5-2 zone, and to permit townhouses and stacked townhouses up to a maximum density of 60 units per hectare and maximum height of 12 metres under the R5-7 zone; an Open Space (OS4) zone to permit such uses as conservation lands, conservation works, public and private parks without structures, and golf courses without structures; and an Urban Reserve (UR1) zone to permit such uses as existing dwellings, agricultural uses, conservation lands, managed woodlot, wayside pit and passive recreation uses.</p>	

<b>BACKGROUND</b>
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The City received the application submission for approval of draft plan of subdivision and zoning by-law amendment in January 2012. The purpose and effect of the application request was to permit development of a residential subdivision consisting of 133 single detached lots, one (1) multi-family residential block fronting directly on Pond Mills Road with potential for up to 23 townhouse dwelling units, one (1) multi-family residential block at the south-easterly limit of the site with potential for up to 39 townhouse dwelling units, one (1) future development block, one (1) open space block, served by two (2) new local streets and a secondary collector road. The site comprises an area of approximately 16 hectares (40 acres) of land located east of Pond Mills Road, west of Shelborne Place, and south of the Thames River. These lands are presently accessed from Pond Mills Road opposite Cleveland Avenue via an unopened road allowance known as Centre Street. Centre Street extends east from Pond Mills Road across the southerly limits of the site and dead-ends approximately three quarters of the way across. The proposed subdivision would connect Deveron Crescent from Shelborne Street to Pond Mills Road along the existing unopened road allowance.

At the time the application was made the existing land uses included two residential homes with outbuildings, agricultural fields and an abandoned orchard. One of the homes, the former Peter White residence, has since been listed on the City's Inventory of Heritage Resources as a Priority 1 property. Some of the outbuildings that did not have heritage significance and which were aging and deteriorating have since been removed. The central portion of the site is occupied by agricultural tableland which slopes gently down towards a steep embankment overlooking the Thames River valley, and is flanked by wooded ravines on the east and west sides.

The City of London Official Plan designates these lands as "Low Density Residential", "Multi-Family, Medium Density Residential", and "Open Space" on Schedule A – Land Use Map. Schedule B-1 – Natural Heritage Features Map identifies several natural feature delineations associated with the site's proximity to the Thames River, including Significant Corridor, Maximum Hazard Lines, and Big Pictures Meta-Cores and Meta-Corridors. Schedule B-2 - Natural Resources and Natural Hazards Map identifies a Riverine Erosion Hazard Limit for

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Confined Systems, Regulatory Floodline, and Conservation Authority Regulation Limit. Schedule C – Transportation Corridors Map identifies the planned extension of Deveron Crescent from Shelborne Street to Pond Mills Road as a “Secondary Collector”. Pond Mills Road is classified as a “Primary Collector”.

Much of the site area east from Pond Mills Road including the westerly ravine and the tablelands are presently zoned Residential R1/Neighbourhood Facility (R1-6/NF) to permit single detached dwellings, elementary schools, day care, and places of worship. A remnant parcel in the southeast corner of the site near Deveron Crescent and Shelborne Street is zoned Residential R5/Residential R8 (R5-4/R8-4) to permit multiple attached residential dwellings, such as townhouses and low-rise apartments. A small pocket of land fronting Pond Mills Road in the southwest corner is zoned Convenience Commercial (CC). The remainder of the site area including the floodplain valley lands, and the easterly ravine are zoned Open Space OS4.

Notice of application to the public was given shortly after the application was accepted for processing, and notices were circulated to all relevant departments and agencies. The response from the departmental/agency circulation resulted in a number of significant concerns being raised with the proposed development, particularly with respect to servicing development and protection of natural heritage features. Since that time City staff have attempted to resolve the issues by working positively with representatives from Drewlo and their consultants. There have been numerous meetings and back-and-forth discussions, including a site visit with Drewlo’s consultants and representatives from Development Services, Environmental & Parks Planning, EEPAC, and the UTRCA.

The outstanding issues with the draft plan submission have been reviewed previously with Drewlo and their consultants; but remain unresolved and they include:

- Provision for public access to Thames Valley corridor lands
- Ecological buffers adjacent to significant vegetation & associated geotechnical setback along adjacent slopes
- Protection for existing heritage structure
- Urban design & placemaking needs to be considered in the subdivision design
- Additional information is required to evaluate the proposed directional drilling for the sanitary trunk sewer and the main storm sewer outlet

On their part Drewlo Holding Inc. has attempted to address the concerns by reconfiguring their draft plan, and by preparing and submitting an Environmental Impact Study (EIS) Addendum report to address the buffers issue and delineate the limits of development. The revised draft plan also included the potential retention of the heritage house on its own lot within the subdivision.

The City’s Corporate Approvals Team (CAT), composed of senior level city managers, also met at a high level to discuss the concerns that have previously been expressed by the City and UTRCA with representatives from Drewlo to try to reach a compromise. As a follow-up to the CAT discussions, a letter summarizing the staff position and outline of options was provided to Drewlo for their consideration, including consideration of an alternate development form such as multi-family medium density residential which would be better suited for the site given the environmental and topographical constraints. However, to date there has been no further action and the parties have been unable to make any further progress towards reaching a resolution to the significant issues and concerns.

**Basis for the Appeals:**

Appellant forms submitted by the applicant’s solicitor on September 23, 2015 (attached as Appendix “A”) noted the following reasons for the appeals:

1. the Council of the Corporation of the City of London failed to make a decision pursuant to Section 34(11) of the Planning Act within 120 days with respect to a Zoning By-law Amendment application;
2. the Approval Authority failed to make a decision pursuant to Section 51(34) of the Planning Act within 180 days after submission of the application for subdivision approval.



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As a result of the appeals, the Zoning By-law amendment and plan of subdivision applications are now under the jurisdiction of the Ontario Municipal Board. While a hearing date has not yet been scheduled, all relevant documentation and comments received on the applications have been provided to the Board.

**SUMMARY OF SIGNIFICANT ISSUES**

The following is an excerpt taken from the December 13, 2013 follow-up letter to Drewlo Holdings Inc. summarizing the Corporate Approval Team’s discussions, and providing an overview of the significant issues:

**Ecological Buffers** – *One of the outstanding issues is the calculation of buffers for natural heritage features along the steep slopes adjacent the Thames River and above the ravines. A resolution to the buffer issue is important because it serves the dual-purpose to protect natural heritage and delineate the limits of development. Environmental and Parks Planning staff have indicated in some places there is little or no buffer provided, and in others the natural heritage feature is inside the lot lines. The City’s approved guidelines are to be used in establishing buffers. Also, as was noted in the November 10, 2010 Proposal Review Meeting, the development proposal lies within the 100 metre setback from the Thames River and does not meet the intent of the Thames Valley Corridor Plan. There have been ongoing discussions with Dave Hayman from BioLogic and some progress has been made. There may be an opportunity for some adjustments along the east and west ravines but greater buffers are required along the Thames Valley. Once the ecological buffers have been confirmed through an accepted EIS, we can determine if they can be incorporated through red line revisions to the plan.*

**Public Access to River Valley Corridor** – *To date, there hasn’t been any progress on the public access and pathway issue, which was identified at the November 10, 2010 Proposal Review Meeting. The Thames River is a public asset and locating public parkland with frontage and access to the river is fundamental. As seen on site, there are view corridors of the river valley and opportunities for public lookouts that should be taken advantage of in conjunction with a recreational trail system. The Thames Valley Corridor (TVC) plan identifies a proposed secondary trail or pathway, and a recreational bike route is identified in the City’s Bicycle Master Plan. The embankment above the river here is narrow and steep and so we acknowledge that this poses physical challenges to creating complete trail linkages to the east within a “park” setting. However, linkages to the west and through much of this parcel along the top-of-bank are feasible, meet the intent of the two master plans, and provide future residents with public parkland along the Thames and access to the City-wide pathway system – both extremely desirable features in any neighbourhood.*

**Status of Heritage Structure** – *As you indicated in our discussion, the lotting and road pattern has been adjusted in order to incorporate the former Peter White home. This structure was not proposed to be retained in the original draft plan which was circulated. We understand there is now a prospective purchaser who is interested in preserving the home on condition that there will be no public park to the rear of the proposed lot containing the home – this will conflict with the key lookout point over the Thames River and public pathway in this area. Through detailed design, appropriate privacy screening could be incorporated into the lot/park design. Although, the existing building is not designated as a heritage property and not listed on the City’s Inventory of Heritage Resources, Development Services will consult with the City’s Heritage Planner to confirm the status as to its architectural and/or historical significance.*

**Note:** Municipal Council amended the Inventory of Heritage Resources by placing the former Peter White residence on the inventory as a Priority 1 property, and recommended that LACH create a statement of designation. The designation has not taken place to date; however, there have been further discussions with City’s Heritage Planner regarding the future status of the property.

**Urban Design / Placemaking** – *An Urban Design Brief was prepared and submitted with the application, and reviewed by the City’s Community Planning and Urban Design Section. It was generally felt the subdivision design didn’t achieve the objectives of the City’s Official Plan and Placemaking Guidelines. There were specific concerns with the proposed rear lotting along the river valley edge, and that comments identified at the November 10, 2010 Proposal Review*

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*Meeting were not addressed. We understand you're not in favour of a single loaded road and that you believe many trees would be removed in order to create vistas to the river valley. However, we would be receptive to working with you in an effort to identify alternative forms of development that achieve the urban design/placemaking goals. Planning will prepare concept plans of alternative development forms for your consideration.*

**Note:** *Staff did meet with representatives from Drewlo several weeks later to consider a preliminary concept plan prepared by Planning and Urban Design staff.*

**Feasibility of Directional Drilling for Storm and Sanitary Outlets** – *The City wants to ensure that the trenchless servicing solution is feasible and that it can work given the natural heritage, geotechnical, and engineering challenges. This item was discussed at some length at the meeting on April 5, 2013 with Drewlo Holdings, UTRCA, and City staff.*

*The SWM Unit identified the need to review, along with the UTRCA and MOE, the proposed storm outlet, energy dissipation pool, and apron design. As per the April 5, 2013 meeting minutes, the applicant agreed to provide concepts of these items but these have not been received to date. There were concerns with impacts of directional drilling on the groundwater table, water balance, slope gradient, and slope seepage areas. Further geotechnical investigations were undertaken by the consultant to examine the soil structure and characteristics in the area to support trenchless services. It should be noted that a multi-family block development would allow more opportunity for a permanent-private system, potentially reducing some of the complications noted above.*

*A copy of the UTRCA response to the recent geotechnical comments is attached.*

*The following comments were provided by Wastewater and Drainage Engineering (WADE) Division following the CAT meeting, to further clarify their position:*

*A meeting took place on April 5, 2013 where our sanitary servicing issues were outlined to the developer. WADE then followed up with comments on May 4, 2013. The main concerns related to providing additional geotechnical information to demonstrate that trenchless installation would be feasible at this location, as well as manhole spacing. WADE has confirmed with Operations that the manhole spacing of 150m is acceptable. However, the geotechnical information related to the implementation of trenchless installation remains outstanding. We are now going to request more specific information in the hopes of obtaining what we need to sign off. Ultimately, we would prefer that this subdivision become a multi-family block with a private pump station as the trenchless installation appears to be quite risky at this depth/location.*

*To clarify, the City rarely constructs trenchless or open cut manholes that are greater than 10m deep. When the City does construct these sewers, there are more requirements leading to approval in accordance with Section 17 of the City's Design Standards and Specifications. Generally, there is a much higher capital cost than conventional open cut sewers. Outstanding items to address prior to acceptance of proposed trenchless sanitary servicing, including a manhole that is 16.2m deep:*

- *Additional detailed hydrogeological and soils information; there are currently no boreholes for the 150m distance in between the top and bottom of the slope. The risk is that there may be cobbles/boulders in between the two BHs that could compromise the success of the trenchless strategy.*
- *Detail regarding the impacts of the proposed trenchless sewer installation, including:*
  1. *the likely method to ensure pit stability (i.e. shoring, slide rails, etc.),*
  2. *an estimate of the likely size (depth and width) of the associated sending/receiving pits,*
  3. *a plan to manage the drilling fluid,*
  4. *expected category of Permit to Take Water (PTTW),*
  5. *the equipment proposed to lower in/retrieve the trenchless machinery, and,*
  6. *any impacts to the Open Space Block 137, which should be captured in the EIS if applicable,*



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*We recognize that answering these questions may require contacting a local trenchless contractor.*

- *Based on the City's 2014 DC cost estimates, it is possible that the storm and sanitary trenchless works could be in excess of \$1,000,000. It may be prudent to obtain a cost estimate from a contractor to ensure the viability of the trenchless servicing for this small development.*
- *The City will require a vortex drop structure to manage turbulence/H2S (hydrogen sulphide gas) due to the significant drop between the local sewer and the proposed 16.2m maintenance hole.*
- *The City will require an easement surrounding the manhole at the top of the slope for future replacement. The easement would be the size determined as the receiving pit.*
- *Due to the risk associated with deep trenchless installations, the City requests the Owner's engineer to provide a list of similar project experiences.*

*At detailed design, we will require:*

- *Meet the requirements of Section 17 of the City's Standards and Design Specifications, including:*
  - *A Geotechnical Baseline Report (GBR) that follows the ASCE protocol will be required as part of the Tender Contract Documents.*
  - *A Standard Operating Procedure letter recommending how to maintain this deep structure. The Owner may be required to contribute additional fees to maintain this pipe in perpetuity.*

*Conclusion:*

- *If the proposed alignment of the sanitary sewer through Block 137 is not viable because of soil conditions or because the impacts cannot be adequately mitigated through the EIS process, alternative sanitary servicing option(s) will need to be considered.*
- *WADE suggests that a multi-family development may be more viable since there would be an opportunity for a gravity sewer extension from Pond Mills Road with a private pump station to service the proposed development.*

**SIGNIFICANT DEPARTMENTAL/AGENCY AND PUBLIC COMMENTS**

Comments have been received from municipal departments, public review agencies and members of the public in response to the notice of application. While some of the comments are detailed and technical in nature, they have been summarized below for the purpose of establishing a position in response to the appeals.

**Environmental Ecological Planning Advisory Committee (EEPAC):**

Comments provided by EEPAC on January 17, 2013 in response to the Environmental Impact Study Addendum (BioLogic, July, 2012) are summarized as follows:

1. Encroachment and Filling of Ravine  
The east ravine should not be altered and certainly not filled to accommodate the proposed development. Proposed developments are intended to preserve and enhance our natural heritage features not build on top of them.
2. Trail Pathway Placement  
It is still not clear where a planned pathway would be located. It is sadly common for this aspect of development to be left undecided at this point in the process which ultimately means a portion of the natural heritage feature would be removed and fragmented in order to any future pathway. The EIS is incomplete without finalization of the pathway location

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and an assessment of its impacts and any additional lands required to be dedicated specifically for the pathway.

3. Inclusion of Plantation and Other Vegetation Communities in Significant Woodland  
EEPAC concerns in this regard do not seem to have been addressed. If the development proposal is to remain unchanged ie. removing vegetation communities that should otherwise be included in the protected woodland boundary, the EIS should at a minimum propose compensation for these communities.

4. Development Encroaches Significant Woodland  
The development proposal still encroaches within the boundary of the significant woodland. Destruction of a natural heritage feature simply because it is convenient to the design layout of a proposed development is not allowed.

5. Buffers  
Even though this is at least the second revision of the original EIS, the consultant and the proponent have still failed to consider, calculate and propose ecological buffers as required by City guideline.

EEPAC recommends that buffer ranges be calculated as per City approved Ecological Buffer Assessment Calculations. The buffer range can then be refined and justified using the sensitivity analysis Table 2 of the Guideline for Determining Setbacks and Ecological Buffers.

**Upper Thames River Conservation Authority (UTRCA):**

The Upper Thames River Conservation Authority (UTRCA) has reviewed the submission by exp *Geotechnical Comment Directional Drilling for Storm and Sanitary Outlets Pond Mills Subdivision* dated April 4, 2013 (received October 3, 2013). We offer the following comments:

1. During the drilling operation, the ground surface may settle or upheave due to the boring. The annular pressure may also induce fractures in the soils or in the formation during the drilling process which may impact the existing slope. The loosened soils have the potential to dilate and increase in volume and become less dense. The loosening of the soils could lead to their collapse which may increase the settling on the surface.

Neither this submission or the May 2010 Supplemental Slope Review Pond Mills Subdivision 130-164 Pond Mills Road, London Ontario also prepared by exp considers the affects, if any, of the proposed directional drilling on the existing and long term stable slope. The UTRCA requires further justification in order to determine whether the necessary approvals pursuant to Section 28 of the Conservation Authorities Act could be issued for the proposed servicing scenario.

2. The proposed velocity in the storm sewers is 3.25 m/sec at a slope of 2.5% over a length of approximately 150 metres dropping from a height of approximately 18 metres yet no energy dissipation measures have been considered. As per the April 5, 2013 Meeting Minutes, the applicant was supposed to provide a concept design for a 250 year storm dissipation outlet (pool/apron). Has this been provided?

3. The UTRCA recommends that an environmental protection and monitoring plan be prepared as the project is situated within a significant natural heritage area.

4. The fluid from the drilling shall not cause any impacts on the natural environment. The UTRCA recommends that a drilling fluid management plan be prepared if drilling is the only option for installing the proposed sewer alignments.

**Public Comments:**

Comments have been received from the public in response to the circulation of the notice of application. Comments were received from 37 area residents in response to the proposed draft plan and zoning by-law amendment, and can be generally summarized as follows:

- Concerns about environmental impact on the natural ravines, removal of trees and vegetation, and loss of wildlife habitat.

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- Need for 30 foot setback from top of ravine slopes to provide for paved bike and pedestrian walkway, and to provide access for maintenance and erosion control.
- Strongly opposed to any noise mitigation measures in the form of continuous noise barrier walls along Pond Mills Road both for aesthetic reasons as well as noise reflecting off barrier.
- Development will contribute to increased traffic on Pond Mills Road.
- Safety concerns for pedestrian crossing at future intersection of Pond Mills Road, Cleveland Avenue, and extension of Deveron Crescent.
- Will result in a skewed alignment at this intersection of Pond Mills Road.
- Strongly opposed to extending Deveron Crescent and creating the potential for significant through traffic on Deveron Crescent between Commissioners Road East and Pond Mills Road.
- Increased traffic through the residential subdivision will create safety hazards for school children.
- Would like to see a site plan to show what will be built on future development blocks 134, 135, & 136.
- This area is already saturated with multi-family housing.
- Proposed lot sizes are much smaller than an average standard lot size in our area. We are concerned that the lower standard and higher density of housing may increase vandalism/crime and plummeting property values in this area.
- The proposed and additional units/town homes/apartments will result in a big increase in density of population and increased traffic and noise in our quiet neighbourhood. Another concern is the safety of our children.

**Official Plan:**

Section 19.6 of the Official Plan provides policies to guide the review and evaluation for plans of subdivision. These policies include criteria which require the plan to be consistent with the objectives and policies of the Official Plan. Specific policies under Section 19.6.1(x) states that the Natural Heritage System will be protected from any negative impacts associated with the plan of subdivision. The City’s servicing objectives under Section 17.1.1(iii) are to protect the natural environment while providing the required services and utilities. Environmental Impact Studies are required to be completed in accordance with Section 15.5.1(ii), in consultation with relevant public agencies, prior to approval of a zoning by-law amendment and subdivision application. As the Environmental Impact Study submitted by the applicant has not yet been accepted by the City, the application for draft plan of subdivision is unable to satisfy the Official Plan criteria, and as such the proposed plan is not consistent with the Natural Heritage and Servicing policies of the Official Plan. The plan, as proposed, also does not implement the Urban Design Principles in Section 11.1.1 of the Official Plan, or the Placemaking Guidelines adopted pursuant to Section 19.2 of the Official Plan.

**Provincial Policy Statement:**

Under Section 3 of the *Planning Act*, decisions of Municipal Councils and approval authorities must be consistent with the policy statements issues under subsection (1) that are in effect on the date of the decision. A decision to approve the proposed plan of subdivision would not be consistent with the Provincial Policy Statement (PPS) and therefore cannot be supported by Council at this time.

Section 1.6.6 of the PPS includes policies that planning for sewage and water services shall ensure that these systems are provided in a manner that protects human health and the natural environment. Section 2.1 of the PPS requires the long term protection of natural heritage features and areas. The plan of subdivision, as proposed, does not protect the natural heritage features and functions that have been identified as significant in the Official Plan and the EIS submitted with the application. The PPS clearly states that development and site alteration shall not be permitted in areas of natural heritage significance unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. This requirement has not been satisfied and the proposed plan of subdivision cannot be approved in its current form.

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<b>SUMMARY AND CONCLUSION</b>
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The appeals from Drewlo Holding Inc. are in response to the failure of Municipal Council and the Approval Authority to make decisions on applications for Zoning By-law amendments and draft plan of subdivision approval within the statutory periods prescribed in the Planning Act. As a result of the appeals, the authority to decide on the applications now rests with the Ontario Municipal Board.

An accepted Environmental Impact Study is required to be completed in order to demonstrate that there will be no negative impacts on the natural features or their ecological functions. The EIS provides mitigation measures which include environmental buffers for protection of natural features. Without an accepted EIS to confirm the limits of development, it is not possible to revise the draft plan, and conditions of draft approval cannot be formulated until such time as this process has been resolved.

A review of comments received on the proposed plan of subdivision confirm that approval of the application in its current form would not be in conformity with the Official Plan or consistent with the Provincial Policy Statement. Approval of the proposed subdivision and zoning by-law amendment would be premature and not in the public interest.

<b>PREPARED BY:</b>	<b>REVIEWED BY:</b>
<b>LARRY MOTTRAM, MCIP, RPP SENIOR PLANNER DEVELOPMENT SERVICES</b>	<b>ALLISTER MACLEAN MANAGER, DEVELOPMENT PLANNING</b>
<b>RECOMMENDED BY:</b>	<b>SUBMITTED BY:</b>
<b>TERRY GRAWAY, MCIP, RPP MANAGER, DEVELOPMENT SERVICES &amp; PLANNING LIAISON</b>	<b>GEORGE KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT &amp; COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL</b>

TG/AM/GK/LM/lm

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Agenda Item # Page #

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**39T-12501/Z-8007  
L. Mottram**

**Appendix "A"**

**Appeals from Drewlo Holding Inc.**



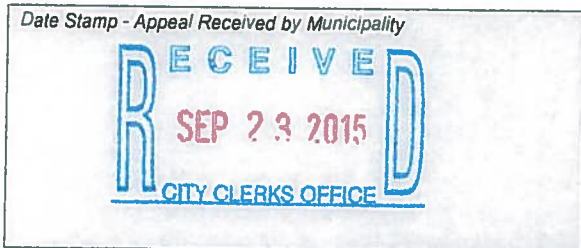
Appellant Forms.pdf



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**



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 type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input checked="" type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

**130, 136, 146 and 164 Pond Mills Road; 925 Deveron Crescent**  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **City of London**



**Part 3: Appellant Information**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

**Drewlo Holdings Inc.**

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 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: **Alan** Last Name: **Patton**

Company Name: **Patton Cormier Ferreira**

Professional Title: **Lawyers**

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

Daytime Telephone #: **519-432-8282** Alternate Telephone #: \_\_\_\_\_

Fax #: **519-432-7285**

Mailing Address: **Suite 1512 – 140 Fullarton Street, London, ON N6A 5P2**

Signature of Appellant:  \_\_\_\_\_ Date: **September 23, 2015**

*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)

**City of London File No. 39T-12501**

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)

1. The Plan of Subdivision is consistent with the Provincial Policy Statement;
2. The Plan of Subdivision conforms to the Official Plan;
3. The Plan of Subdivision will efficiently use existing infrastructure;
4. The Plan of Subdivision has regard to all matters in Section 51(24), *Planning Act*;
5. Development of the land in accordance with the Plan of Subdivision will not have any unacceptable adverse impact on the subject lands or adjoining or adjacent lands.

**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)

**City of London File No. Z-8007.**

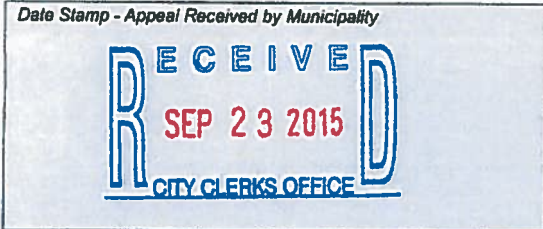




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 www.elt.o.gov.on.ca

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Professional Title (if applicable): \_\_\_\_\_

E-mail Address: \_\_\_\_\_

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Fax #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

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

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Professional Title: **Lawyers**

E-mail Address: **apatton@pattoncormier.ca**

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(Please print)

**City of London File No. Z-8007. Application for Zoning By-law Amendment.**

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)

- 1. The Zoning By-law is consistent with the Provincial Policy Statement;
- 2. The Zoning By-law conforms to the Official Plan;
- 3. The Zoning By-law will implement the Plan of Subdivision.

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(For example: A consent application connected to a variance application)

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(Please print)

**City of London File No. 39T-12501. Application for Draft Plan of Subdivision.**



