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**File No.: 39T-08502
Planner: A. MacLean**

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	APPLICATION BY: KENMORE HOMES (LONDON) INC. 255 SOUTH CARRIAGE ROAD & 1331 HYDE PARK ROAD MEETING ON NOVEMBER 5, 2012

RECOMMENDATION

That in response to the letter of appeal to the Ontario Municipal Board, dated August 28, 2012, as submitted by Barry Card on behalf of Sydenham Investments Inc, relating to draft plan of subdivision located at 255 South Carriage Road & 1331 Hyde Park Road,

- a) the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its position relating to this matter and maintains its original position; and,
- b) the City Solicitor **BE DIRECTED** to represent Council's interests in these matters and may retain outside expert witnesses in support of Council's position.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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March 2006 - B30/06 - Consent Application

January 2011 – Report to Built and Natural Environment Committee relating to the Subdivision, Official Plan amendment and Zoning By-law amendment applications by Kenmore Homes (London) Inc.

September 2011 – Info Report to the Built and Natural Environment Committee on Status of the application

March 26, 2012 - Report to Built and Natural Environment Committee relating to the revised Subdivision, Official Plan amendment and Zoning By-law amendment applications by Kenmore Homes (London) Inc.(see attached)

May 28, 2012 – Info report to Planning and Environment Committee

BACKGROUND

Since January 2011, numerous public meetings have been held to address the above noted draft plan of subdivision application. At the final public meeting on May 28, 2012, the applicant (Kenmore Homes Inc.) requested that the following condition be deleted from the proposed conditions of draft approval:

Prior to Final Approval of any phase, the Owner shall demonstrate to the Approval Authority's satisfaction that the Owner has compensated Sydenham Investments Inc. in the amount of \$111,987.28 which represents one half of the costs of the land and construction of South Carriage Road adjacent to lots 1, 158-161 inclusive and Street "C"

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adjacent to in this subdivision.

While staff's recommendation was to include this condition, Council agreed to the applicants request and advised the Approval Authority that this condition was not appropriate and should be deleted. The basis of the Sydenham Investments appeal relates to the removal of this condition. The letter of appeal is attached in Appendix "A".

In accordance with Council's previous direction, it is recommended that the Ontario Municipal Board be advised that the Municipal Council has reviewed its decision relating to this matter and maintains its original position.

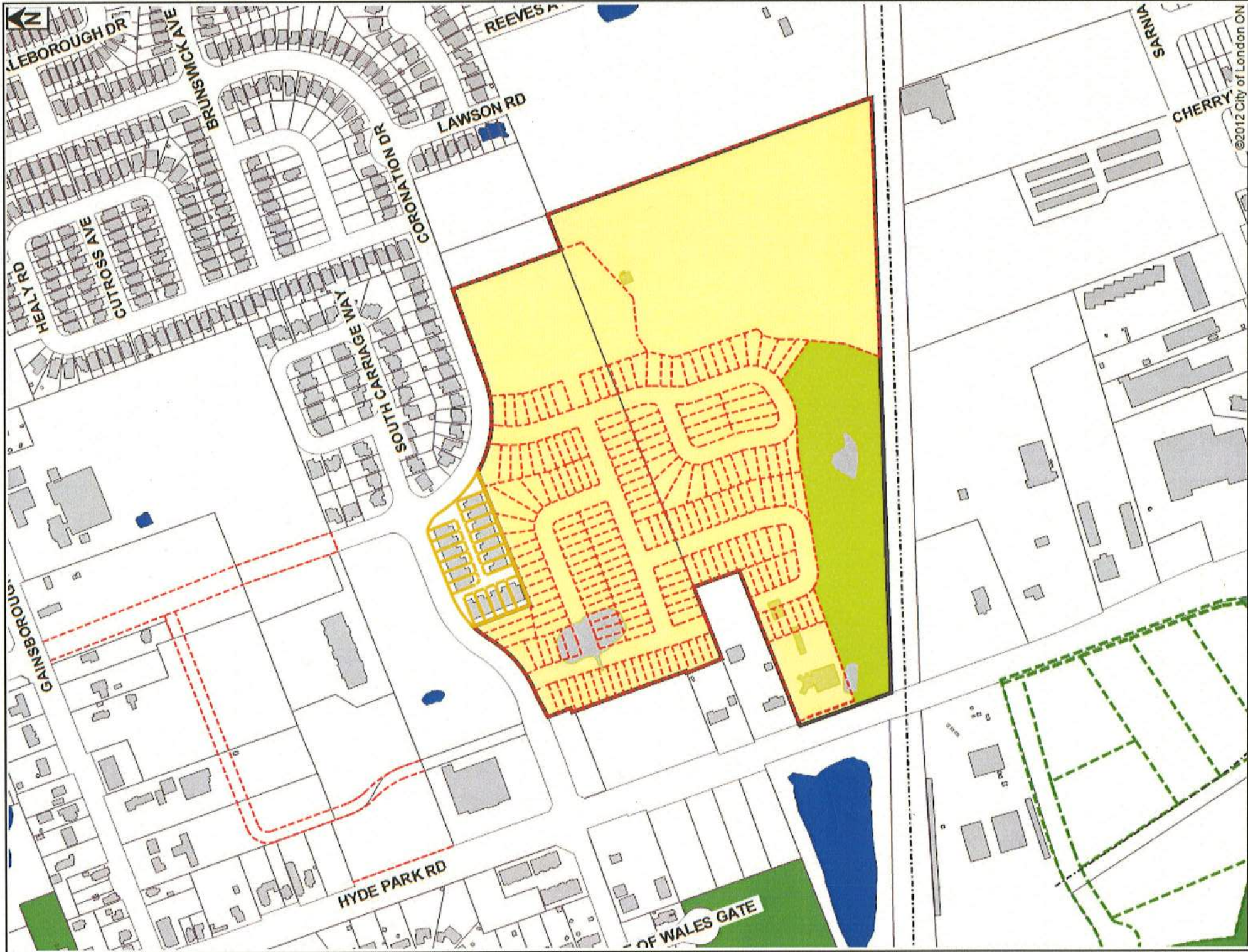
Ontario Municipal Board staff have recently advised that a 2 day hearing will be scheduled for this appeal to be heard sometime between December 2012 and February 2013.

PREPARED BY:	REVIEWED BY:
	
ALLISTER MACLEAN SENIOR PLANNER-DEVELOPMENT PLANNING	B.C. HENRY MANAGER - DEVELOPMENT PLANNING
REVIEWED BY:	SUBMITTED BY:
	
T. GRAWEY MANAGER-DEVELOPMENT SERVICES	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL






October 15, 2012
 AM/am
 "Attach"

Y:\Shared\Sub&Spec\SUBDIV2008\39T-08502 - 255 South Carriage Road (AMaCL)\OMB\OMB report to PEC.doc

CC: Janice Page, Legal
 Barry Card, Barry R. Card Barrister and Solicitor
 Dan Walsh, Sydenham Investments
 Ric Knutson, Knutson Planning



LEGEND

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

LOCATION MAP

Subject Site: Kenmore - Draft Plan of Subdivision
 Applicant: Kenmore Homes (London) Inc.
 File Number: 39T-08502
 Planner: Allister MacLean
 Created By: Allister MacLean
 Date: 2012-05-16
 Scale: 1:5000



Agenda Item #	Page #

**File No.: 39T-08502
Planner: A. MacLean**

Appendix "A"

Barry R. Card

BARRISTER & SOLICITOR
Certified Specialist - Municipal Law: Local Government/ Land Use Planning & Development Law

568 RIDGEWOOD CRESCENT
LONDON, ONTARIO N6J 3J2
TELEPHONE (519) 433-5117 • FACSIMILE (519) 963-0285

Internet Address: *cardlaw@rogers.com*

August 28, 2012

DELIVERED

J. Yanchula
Manager, Community Planning & Design
City of London Approval Authority
300 Dufferin Avenue
London, Ontario
N6A 4L9

RECEIVED BY

AUG 28 2012
CITY OF LONDON
DEVELOPMENT SERVICES

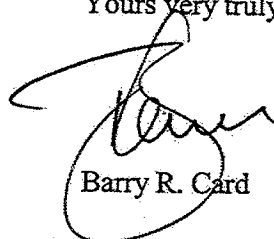
Dear Sir:

**Re: Section 51(39) Appeal by Sydenham Investments Inc.
Draft Plan of Subdivision - 39T-08502
255 South Carriage Road and 1331 Hyde Park Road, London
Kenmore Homes (London) Inc.**

I am the solicitor for Sydenham Investments Inc. and enclose Sydenham's appeal of the Approval Authority's Decision dated August 3, 2012.

The Appellant Form and cheque for \$125.00 are enclosed. If anything further is required to permit you to forward the appeal to the Ontario Municipal Board, please let me know.

Yours very truly,



Barry R. Card

BRC:jmh
Encls.

cc: Sydenham Investments Inc.



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

www.eltto.gov.on.ca

FORM

**APPELLANT FORM (A1)
 PLANNING ACT**

SUBMIT COMPLETED

**TO
 MUNICIPALITY/APPROVAL
 AUTHORITY**

Stamp: Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

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

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

Part 2: Location Information

255 South Carriage Road and 1331 Hyde Park Road

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: _____

Sydenham Investments Inc., c/o Barry R. Card, Barrister and Solicitor
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

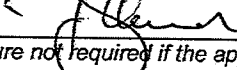
E-mail Address: cardlaw@rogers.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-433-5117 Alternate Telephone #: _____

Fax #: 519-963-0285

Mailing Address: 568 Ridgewood Crescent London
Street Address Apt/Suite/Unit# City/Town

Ontario N6J 3J2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: August 23, 2012
(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: _____ Last Name: _____

Company Name: _____

Professional Title: _____

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: _____

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

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

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)

Notice of Decision of approval of Draft Plan of Subdivision, Municipal File No. 39T-08502.
Kenmore Homes (London) Inc.

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

(Please print)

The condition with respect to cost sharing, as proposed by staff, should have been included in the draft conditions, namely:

40. Prior to Final Approval of any phase, the Owner shall demonstrate to the Approval Authority's satisfaction that the Owner has compensated Sydenham Investments Inc. in the amount of \$111,987.28 which represents one half of the costs of the land and construction of South Carriage Road adjacent to lots 1, 158-161 inclusive and Street "C" adjacent to in this subdivision.

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

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

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

Part 7: Related Matters (if known)

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

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

- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**