TO: CHAIR AND MEMBERS - PLANNING COMMITTEE
FROM: R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT
SUBJECT: APPLICATION BY:
MOUNTAINVIEW KENMORE VENTURES INC.
865 SARNIA ROAD
(SANDBAR SUBDIVISION)
MEETING ON MONDAY, SEPTEMBER 10, 2007

RECOMMENDATION

That on the recommendation of the General Manager of Planning and Development, in response to the letter of appeal dated July 26, 2007 (Helen M. Dickie), relating to the Draft Plan of Subdivision and Zoning By-law amendment for the property located at 865 Sarnia Road:

a) The Ontario Municipal Board BE ADVISED that Council has reviewed its decision relating to these appeals and sees no reason to alter its previous decisions; and

b) The City Solicitor BE DIRECTED to provide legal representation at the Ontario Municipal Board Hearing to support the Approval Authority's decision.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

June 18, 2007 - Report for Planning Committee on proposed draft plan revisions and Zoning By-law amendments.

BACKGROUND

On June 25, 2007, Municipal Council considered proposed revisions to draft plan of subdivision and proposed amendments to the Zoning By-law for the property at 865 Sarnia Road (39T-02517(Revised)/Z-7315)(refer to attached location map). The statutory public meeting was held at the June 16, 2007 meeting of Planning Committee.

Notice of passing of the zoning by-law amendment was sent on July 10, 2007 and the Notice of Decision for draft approval was sent July 6, 2007. Appeals were received for the revised draft plan of subdivision and for the zoning by-law amendment (see attached).

The reasons submitted by the appellant in support of the appeal to the revised plan of subdivision and requested Zoning by-law amendment include:

- Potential impacts on the existing pond located on the appellants property;
- Potential impacts on vegetation and wildlife adjacent to the pond (should the pond dry up as a result of this development);
- The development of lots adjacent to the pond may impact the ponds water supply;
- Insufficient studies provided to date to ensure that the pond will not be impacted by this development;
- Common property line fencing concerns;
- Insufficient attention to the appellants concerns during the public participation process (ie lack of studies to determine impacts of development on appellants lands).
The applicants agent (Ric Knutson, Knutson Planning Inc) and the appellants consultant (Laverne Kirkness, Kirkness Consulting) are having ongoing discussions in order to try and reach a settlement on some or all of the issues prior to the Ontario Municipal Board hearing.

PREPARED BY:  SUBMITTED BY:

ALLISTER MACLEAN  DOUG STANLAKE
SENIOR PLANNER – SUBDIVISIONS & SPECIAL PROJECTS  MANAGER OF SUBDIVISIONS & SPECIAL PROJECTS

RECOMMENDED BY:

R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT

January 5, 2006
AM/am
"Attach."

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

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

<table>
<thead>
<tr>
<th>SUBJECT OF APPEAL</th>
<th>TYPE OF APPEAL</th>
<th>PLANNING ACT REFERENCE (SECTION)</th>
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<tbody>
<tr>
<td>Minor Variance</td>
<td>Appeal a decision</td>
<td>45(12)</td>
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<tr>
<td>Consent</td>
<td>Appeal a decision</td>
<td>53(19)</td>
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<td></td>
<td>Appeal changed conditions</td>
<td>53(27)</td>
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<td></td>
<td>Failed to make a decision on the application within 90 days</td>
<td>53(14)</td>
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<tr>
<td>Zoning By-law</td>
<td>Appeal the passing of a Zoning By-law</td>
<td>34(19)</td>
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<tr>
<td>Interim Control By-law</td>
<td>Appeal the passing of an Interim Control By-law</td>
<td>38(4)</td>
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<tr>
<td>Official Plan or</td>
<td></td>
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<td>Official Plan Amendment</td>
<td>Appeal a decision</td>
<td>17(24) or 17(36)</td>
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<td></td>
<td>Failed to make a decision on the application within 180 days</td>
<td>17(40)</td>
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<td>Application for an amendment to the Official Plan refused by the municipality</td>
<td>22(7)</td>
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<tr>
<td></td>
<td>Application for an amendment to the Official Plan - failed to make a decision on the application within 180 days</td>
<td>22(7)</td>
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<tr>
<td>Subdivision</td>
<td>X Appeal a decision</td>
<td>51(39)</td>
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<td></td>
<td>Appeal conditions imposed</td>
<td>51(43) or 51(48)</td>
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<tr>
<td></td>
<td>Failed to make a decision on the application within 180 days</td>
<td>51(34)</td>
</tr>
</tbody>
</table>
Part 2: Location Information
865 Sarnia Road, north side of Sarnia Road and west of Aldersbrook Drive, legally described as all of lot 10, 11, and 12 and part of lots 3, 4 and 9, Registered Plan No. 48(C) in the City of London, (Geographic Township of London) County of Middlesex.

Address and/or Legal Description of property subject to the appeal: CITY OF LONDON.

Part 3: Appellant Information
First Name: Helen Marjorie Last Name: DICKIE
Company Name or Association Name (Association must be incorporated - Include copy of letter of incorporation)
Professional Title (if applicable): NOT APPLICABLE
E-mail Address: By providing an e-mail address you agree to receive communications from the OMB by e-mail.
Daytime Telephone #: 519-471-2807 Alternate Telephone #:
Fax #: NONE
Mailing Address: 905 Sarnia Road LONDON Ontario N0H-5J9

Signature of Appellant: Helen DICKIE

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: Laverne Last Name: KIRKNESS
Company Name: KIRKNESS CONSULTING INC. Urban and Rural Planning
Professional Title: Registered Professional Planner
E-mail Address: LKirkness@fanshawec.ca
Daytime Telephone #: 519-672-6550 Alternate Telephone #:
Fax #: 519-672-4200
Mailing Address: 427 Regent Street LONDON Ontario N5Y4H1

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

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

Part 5: Appeal Specific Information

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

Municipal file # 39T-02517, is the application for Draft Plan of subdivision approval is being appealed. The applicant is Mountainview Kenmore Ventures Inc. The Notice of Decision is attached and its date was July 6, 2007.

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

Helen Dickie owns 12.4 ha (30.6 acres) abutting the entire west boundary of the subject Mountainview Kenmore Ventures Inc. lands. She has resided at this location for 41 years and has carried on farming activity. Currently she has horses on her lands that are sheltered in a barn. The attached map shows her lands adjacent to the subject lands and also shows a pond that is located along the east side of her lands and extends partly into the subject lands.

Helen Dickie is appealing the subject decision to the OMB for the following reasons.

1. There appears to be a real possibility that the pond will dry up and cease to exist. The pond is the only source of water used by the horses during the spring, summer and fall seasons. There has been insufficient study done on the source(s) of the water for this pond. The impacts of the proposed subdivision development on the pond are unknown in terms of affecting the quality and quantity of water supply to the pond. To the south, previous development to the east (earlier phases of subdivision development on the subject lands) caused a small stream from flowing and bringing water across the Dickie lands that watered the horses during the winter months. Now water has to be brought manually to the horses during the winter months.

2. If the pond dries up, the natural vegetation and wildlife will also be lost and these features have been enjoyed for the past 41 years by Helen Dickie.

3. The lotting and street locations of the proposed subdivision are possibly too close to the pond to protect its water supply

4. It is acknowledged that the Draft Plan conditions 14 and 41 partly address the main reason for the appeal but more work needs to be done at this time, before Draft Approval is granted, to be sure there will not be a negative impact on the Dickie pond and lands.

5. The matter of the extent and location of fencing along the common property boundary to protect the privacy and deter trespass by the new subdivision families has not been resolved.

[continued]
6. Because of the absence of sufficient study and impacts on the neighbouring Dickie lands, the proposed subdivision does not conform to the City's Official Plan, from the perspective of not sufficiently studying the impacts of development on surrounding lands as set out in section 19.6 (v). Helen Dickie has participated in public forums for development of these lands and has made presentations to Planning Committee of Council as far back as June 10, 2003 (presentation attached). Section 19.12 sets out Public Participation policies that encourages public participation to be an integral part of the planning process. In this case, the input from Helen Dickie has not been given sufficient attention. Otherwise, the City would have asked the applicant to provide sufficient geotechnical and hydro-geological study to be done as part of the public process prior to Draft Plan Approval.

7. Such other matters that may come to mind in preparation for the OMB hearing.

Part 6: Related Matters (if known)

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

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

(Please Print)

The associated application for the zoning bylaw amendment is Municipal file #Z-7315 and a copy of it is attached.

Part 7: Scheduling Information

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

How many witnesses do you expect to have at the hearing?  ☐ Two 

Describe witness(es)' area of expertise:  land use planner and geotechnical-hydro-geological engineer 

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

If yes, why?

Part 8: Other Applicable Information **Attach a separate page if more space is required.
Part 9: Required Fee

Total Fee Submitted: $125.00

Payment Method:  X  Certified cheque *

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

*Or Solicitor's general or trust account cheque.