

Owner: KLM Holdings
Applicant: Monteith Brown
File No.: 34T-WE2301
Municipality: West Elgin
Subject Lands: Part Lot 30, Plan 202, Part 2,
RP 11R-5577, Geographic Township of Aldborough,
Municipality of West Elgin

Date of Decision: November 26, 2024
Date of Notice: December 3, 2024
Last Date of Appeal: December 18, 2024
Lapsing Date: November 26, 2027

NOTICE OF DECISION

On Application for Approval of Draft Plan of Subdivision
Subsection 51(37) of the *Planning Act*

Approval of a Draft Plan of Subdivision in respect of the subject lands noted above was given by the County of Elgin on November 26, 2024. A copy of the conditions for final approval and the draft approved plan is attached. Council considered all written and oral submissions received on this application, the effect of which helped Council to make an informed decision.

When and How to File an Appeal

Notice to appeal the decision to the Ontario Land Tribunal (OLT) must be filed with the County of Elgin no later than 20 days from the date of this notice as shown above as the last date of appeal.

The notice of appeal should be sent to the attention of the Manager of Planning, at the address shown below and it must,

- (1) set out the reasons for the appeal, and
- (2) be accompanied by the fee prescribed under the Ontario Land Tribunal Act in the amount of \$400.00 (for individuals) and \$1,100 (for corporations), payable by certified cheque to the Minister of Finance, Province of Ontario.

Who Can File an Appeal

Only individuals, corporations or public bodies may appeal the decision in respect of a proposed plan of subdivision to the Local Planning Appeal Tribunal. An appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

Right of Applicant or Public Body to Appeal Conditions

The applicant or any public body may, at any time before the final plan of subdivision is approved, appeal any of the conditions imposed by the County of Elgin by filing with the Manager of Planning a notice of appeal.

How to receive Notice of Changed Conditions

The conditions of an approval of draft plan of subdivision may be changed at any time before the final approval is given.

You will be entitled to receive notice of any changes to the conditions of approval of draft plan of subdivision if you have either,

- (1) made a written request to be notified of the decision, or
- (2) made a written request to be notified of changes to the conditions of approval of the draft plan of subdivision.

Other Related Applications:

Municipality of West Elgin Zoning By-Law Amendment

Getting Additional Information

Additional Information about the application is available for public inspection during regular office hours at the County of Elgin at the address noted below.

Mailing address for Filing a Notice of Appeal

County of Elgin
450 Sunset Drive, 3rd Floor
St. Thomas, ON N5R 5V1
Attention: Mat Vaughan, Director of Planning
Telephone: (519) 631-1460
Email: mvaughan@elgin.ca

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The conditions and amendments to final plan of approval for registration of this subdivision as provided by the County of Elgin are as follows:

No.	CONDITIONS
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1. This approval applies to the draft plan of subdivision, prepared by Monteith Brown Planning consultants and certified by Robert Wood (AGM), Ontario Land Surveyor, dated June 5, 2024, which shows:
 - 28 low density residential building lots (Lots 1-28)
 - 2 multiple unit residential building lots (Blocks 29 & 30)
 - Street "A" (a public highway)
 - Harper Street (extension of a public highway)
 - Stormwater Pond (Block 31)
 - Reserve Block (Block 32).
2. This approval applies for three (3) years, and if final approval is not given by that date, the draft approval shall lapse, except in the case where an extension has been granted by the County of Elgin.
3. The municipal road allowance included on the draft plan shall meet the standards of the Municipality of West Elgin and be shown and dedicated as public highways on the final plan submitted for approval and registration.
4. The streets within the draft plan of subdivision shall be named to the satisfaction of the Municipality.
5. Prior to final approval for the registration of the subdivision, the Owner shall submit a request for municipal addressing to the Municipality to be prepared by the Municipality and submitted to the appropriate agencies.
6. The Owner enters into a subdivision agreement, pursuant to the authority of Section 51(26) of the Planning Act, as amended, with the Municipality of West Elgin wherein the owner agrees to satisfy all the requirements, financial and otherwise, of the Municipality of West Elgin concerning the installation of services including roads, sanitary sewerage collection system, water distribution system, utilities and stormwater management facilities for the development of the lands within the plan.

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7. That the Owner must enter into a subdivision agreement, pursuant to the authority of section 51(26) of the *Planning Act*, as amended, with the Municipality wherein the owner agrees to satisfy all the requirements, financial and otherwise, of the Municipality respecting the conditions of approval set out herein, and the laying out and development of the site, the installation of facilities and services including roads, on-site sewage collection systems, which includes the following:
- a) The owner agrees to satisfy all financial requirements including outstanding Municipal Property taxes and invoices for services provided prior to issuance of building permits;
 - b) The development shall be serviced by municipal water at the developer's expense. The Municipality shall confirm that there is uncommitted reserve water treatment capacity to service the development;
 - c) The development shall be serviced by municipal sanitary sewage system at the developer's expense. The Municipality shall confirm that there is uncommitted reserve sanitary sewer capacity to service the development;
 - d) The development shall be serviced by a stormwater management system, combined with stormwater management facilities for water quantity and quality;
 - e) An Environmental Compliance Approval must be obtained from the MECP for storm water management in advance of any development same as above. That the Owner obtain an Environmental Compliance Approval from the Ministry of the Environment and Climate Change for storm water management prior to any development requiring a building permit. The subdivision agreement shall contain provisions regarding the development, implementation, installation, and maintenance of the storm water management facilities;
 - f) Any unplugged oil or gas wells discovered during the development process must be plugged in accordance with the Oil, Gas and Salt Resources Act;
 - g) Permits must be obtained for any lots within the regulation area from Lower Thames Valley Conservation Authority (LTVCA), as defined by the regulation under the Conservation Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation O. Reg. 152/06 under the Conservation Authorities, prior to commencing any construction, as defined by the Conservation Authorities Act, and/or grading on the site;
 - h) Erosion and sediment control plan(s) applicable to the development, to the satisfaction of the Municipality and the Lower Thames Valley Conservation Authority prior to commencement of any development, as defined under the Conservation Authorities Act, including grading and/or Site alteration works upon the subject lands;
 - i) Installation of geodetic monuments within the subdivision. The number, specifications and location of the monuments are to be approved by the

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Municipality.

- j) That the Owner convey to and consolidate with 202 Harper Street a 3 m wide parcel abutting Lot 28, as agreed, and shown on the final draft plan to address an existing encroachment.

The subdivision agreement between the owner and the Municipality of West Elgin shall be registered against the lands to which it applies once the plan of subdivision has been registered.

8. That the subdivision agreement shall require that the following clause be inserted in all development agreements, offers of purchase, and agreements of purchase and sale of each dwelling unit:

“Purchasers/Lessees of this lot are advised that students may not be able to attend the closest elementary or secondary school and could be bused to a distant school with available capacity and that the present existence of such schools are not a guarantee of their future availability.”

9. That a lot grading plan for the perimeter of the lots has been prepared and approved by the Municipality as part of the subdivision agreement.
10. Prior to final approval the Municipality shall advise that appropriate zoning is in effect for the plan of subdivision. Prior to registration, if there are any discrepancies between the approved By-law and final draft plan, a minor variance or Zoning By-law Amendment will be required and fees borne by the applicant.
11. The Owner shall provide easements as may be required for services, utility, or drainage purposes in a form satisfactory to the Municipality or utility and where required by the Municipality, daylight corners and street reserves shall be shown on the final plan and conveyed in a form satisfactory to the Municipality.
12. That the Owner conveys up to five (5%) of the land included in this plan for the Municipality for park or other recreational purposes or alternatively the Municipality may require cash-in-lieu of all or a portion of the conveyance.
13. That the Owner shall be responsible for implementing and maintaining sediment and erosion controls on the subject lands until such time as the subject lands are fully developed.
14. Prior to final approval, arrangements shall be made to the satisfaction of the Municipality

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for the relocation of any utilities that may be required as a result of the development of the subject lands, such relocation shall be undertaken at the expense of the Owner.

15. Prior to final approval, the Owner will provide to Enbridge the necessary easements and/or agreements required by Enbridge for the provision of gas services for this project, in a form satisfactory to Enbridge. Prior to final approval, Enbridge shall advise in writing how their conditions have been satisfied.
16. Prior to final approval, the Owner will provide to Bell Canada the necessary easements and/or agreements required by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada. The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost. Prior to final approval, Bell Canada shall advise in writing how their conditions have been satisfied.
17. Prior to final approval the Owner shall ensure that the requirements of Canada Post have been satisfied as follows:
 - a) The developer will consult with Canada Post to determine suitable permanent locations for the Community Mail Boxes. The developer will then indicate these locations on the appropriate servicing plans;
 - b) The developer agrees, prior to offering any units for sale/rent, to display a map on the wall of the sales office in a place readily accessible to potential owners/renters that indicates the location of all Community Mail Boxes within the development, as approved by Canada Post;
 - c) The developer agrees to include in all offers of purchase/rental a statement which advises the purchaser/renter that mail will be delivered via Community Mail Box. The developer also agrees to note the locations of all Community Mail Boxes within the development, and to notify affected owners/renters of any established easements granted to Canada Post to permit access to the Community Mail Box.
 - d) The developer will provide a suitable and safe temporary site for a Community Mail Box until curbs, sidewalks and final grading are completed at the permanent Community Mail Box locations. Canada Post will provide mail delivery to new residents/tenants as soon as the homes/businesses are occupied; and
 - e) The developer agrees to provide the following for each Community Mail Box site and to include these requirements on the appropriate servicing plans:
 - i. Any required walkway across the boulevard, per municipal standards;
 - ii. Any required curb depressions for wheelchair access, with an opening of at least two to three metres (consult Canada Post for

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detailed specifications);

- iii. A Community Mailbox concrete base pad per Canada Post specifications.

18. That prior to final approval, the developer shall submit a storm water management plan, a sediment and erosion control plan, and final detailed servicing and grading plans to the satisfaction of the Lower Thames Valley Conservation Authority for approval and if required, the subdivision agreement contain provisions implementing the plan
19. That prior to final approval of the plan of subdivision, the Municipality of West Elgin shall advise in writing how conditions 1 to 14 have been satisfied.
20. That prior to final approval of the plan of subdivision, the Lower Thames Valley Conservation Authority shall advise in writing how conditions 7 g), and h), and condition 18 have been satisfied.
21. That prior to final approval of the plan of subdivision, Enbridge shall advise in writing how condition 15 has been satisfied.
22. That prior to final approval of the plan of subdivision, Bell Canada shall advise in writing how condition 16 has been satisfied.
23. That prior to final approval of the plan of subdivision, Canada Post shall advise in writing how condition 17 has been satisfied.

NOTES TO DRAFT APPROVAL:

1. It is the Owner's responsibility to fulfill the conditions of draft approval.
2. The Owner acknowledges and agrees that it is the Owner's responsibility to fulfill the conditions of draft approval and ensure that the required clearance letters are received by respective agencies. The owner is responsible to submit a Request to Register document that outlines how each of the conditions of approval have been cleared to the satisfaction of Elgin County. A Request to Register package should be received at least 60 days prior to requesting final approval.
3. It is suggested that the applicant be aware of section 144 of the *Land Titles Act* and subsection 78(10) of the *Registry Act*.

Subsection 144 (1) of the *Land Titles Act* requires that a plan of subdivision of land that is located in a land titles division be registered under the *Land Titles Act*. Exceptions to

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this provision are set out in subsection 144(2).

Subsection 78(10) of the *Registry Act* requires that a plan of subdivision of land that is located only in a registry division cannot be registered under the *Registry Act* unless that title of the owner of the land has been certified under the *Certification of Titles Act*. Exceptions to this provision are set out in clauses (b) and (c) of subsection 78(10)

4. The Owner is advised that in the event that deeply buried archaeological remains should be discovered during construction, it is recommended that archaeological staff of the Ontario Ministry of Tourism, Culture and Sport be notified immediately. Similarly, in the event that human remains should be encountered during construction, it is recommended that the proponent immediately notify the Ontario Ministry of Tourism, Culture and Sport and the Registrar of the Cemeteries Regulation Unit of the Cemeteries Branch.
5. The Ontario Land Surveyor responsible for preparing the final plan for registration should contact the Municipality of West Elgin regarding the preparation of the final plan to ensure the requirements of draft approval are properly addressed in the preparation of the final plan and that the final plan prepared contains sufficient geodetic information to locate the plan within the UTM Coordinate System, North American Datum 1983, prior to submitting the plan for final approval. A digital copy of the final plan, in a form satisfactory to the Municipality of Central, is required as part of the final plan submission.
6. Inauguration, or extension of a piped water supply, a sewage system or a storm drainage system, is subject to the approval of the Ministry of the Environment under Sections 52 and Section 53 of the *Ontario Water Resources Act*.
7. The Owner is hereby advised that the review of this plan of subdivision did not include groundwater, soil or atmosphere testing to fully discount the possibility that waste materials and/or other contaminants are present within or in close proximity to this subdivision. If either the owner or the Municipality requires such assurance before proceeding with this plan of subdivision, a team of consultants should be retained to conduct any necessary investigations.
8. The Ministry of the Environment, Conservation, and Parks must be advised immediately should waste materials or other contaminants be discovered during the development of this plan of subdivision. If waste materials or contaminants are discovered, a further approval under Section 46 of the *Environmental Protection Act* may be required from that Minister.

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9. The Owner is advised that if any unplugged petroleum wells or associated works are identified during the development of the site, the owner shall notify the Petroleum Resources Centre of the Ministry of Natural Resources and Forestry. The owner shall plug the wells and rehabilitate the surface according to the Provincial Standards of the *Oil, Gas and Salt Resources Act*. The Ministry of Natural Resources and Forestry recommends that no structures be built immediately over a plugged petroleum well.
10. The Owner is advised to contact Bell Canada at planninganddevelopment@bell.ca during the detailed utility design stage to confirm the provision of communications / telecommunications infrastructure needed to service the development.
11. It shall be noted that it is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada's existing network infrastructure to service the approved draft plan of subdivision. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the owner may be required to pay for the extension of such network infrastructure. If the owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.
12. Canada Post will provide mail delivery service to this development through centralized Community Mailboxes (CMBs) unless.
13. If the development includes plans for (a) multi-unit building(s) with a common indoor entrance, the developer must supply, install and maintain the mail delivery equipment within these buildings to Canada Post's specifications. If there are over 100 units, a mail room will be required.
14. Please provide Canada Post with the excavation date for the first foundation/first phase as well as the date development work is scheduled to begin so that we can plan for equipment. Finally, please provide the expected installation date(s) for the CMB(s).
15. It is suggested that the Municipality register the subdivision agreement as provided by subsection 51(26) of the *Planning Act*, against the land to which it applies, as notice to prospective purchasers.
16. If the agency's condition concerns a clause in the subdivision agreement, a copy of the agreement should be sent to them. This will expedite clearance of the final plan. A copy of the agreement is also required by the County of Elgin.
17. All measurements on subdivision and condominium final plans must be presented in metric units.

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The final plan must be submitted digitally in AutoCAD (DWG) and Portable Document Format (PDF) with the appropriate citation from the Planning Act used. The AutoCAD (DWG) file must be consistent with the following standards:

- Georeferenced to the NAD83 UTM Zone 17M coordinate system.
- All classes of features must be separated into different layers.
- Each layer should be given a descriptive name so that the class of feature it contains is recognizable.

The final plan approved by the County of Elgin must include the following paragraph on all copies (3 mylars and 4 paper) for signature purposes:

Approval Authority Certificate

This final plan of subdivision is approved by the County of Elgin under Section 51 (58) of the Planning Act, R.S.O. 1990, on this __day of _____ 20__.

Director of Planning and Development

18. The approval of this draft plan of subdivision File No. 34T-WE2301 will lapse on ----, pursuant to subsection 51(32) of the *Planning Act*, as amended. It is the responsibility of the owner to request an extension of the draft approval if one is needed. A request for extension should be made at least 60 days before the approval lapses since no extension can be given after the lapsing date. The request should include the reasons why an extension is needed and a resolution in support of the extension from Council of the Municipality of West Elgin.
19. The final plan approved by the County of Elgin must be registered within 30 days or the County may withdraw its approval under subsection 51(59) of the *Planning Act*