

Applicant: Fantuz Holdings Inc. c/o Gary Taveirne
File No.: 37-T-24003
Municipality: Town of Essex
Location: PT LT 1 & 2, CON 12 (Colchester)

Date of Decision: May 8, 2024
Date of Notice: May 8, 2024
Last Date of Appeal: May 28, 2024
Lapsing Date: May 8, 2027

NOTICE OF DECISION

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

Approval of Draft Plan of Subdivision to the application in respect of the subject lands noted above, is proposed to be given by the County of Essex. All submissions were considered as part of the decision-making process. Refinements to the conditions of draft approval reflect the public input and submissions. A copy of the decision is attached.

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 Essex 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, Planning Services at the address shown below and it must,

- (1) include the reasons for the appeal, and a completed ***Appeal Form (A1) Planning Act*** available from the OLT website:
<https://olt.gov.on.ca/appeals-process/forms/>
- (2) be accompanied by the prescribed filing fee payable by certified cheque or money order to the Minister of Finance.

Who Can File An Appeal

Only individuals, corporations or public bodies may appeal the decision of the County of Essex to the 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 on its behalf.

No person or public body shall be added as a party to the hearing of the appeal to the decision of the County, including the lapsing provisions or the conditions, unless the person or public body, before the decision of the County, made oral submission at a public meeting or written submissions to the Council or, in the Tribunal's opinion, there is reasonable grounds to add the person or public body as a party.

Right of Applicant or Public Body to Appeal Conditions

The applicant, the Minister, the Municipality, or any public body that, before the County made its decision, made oral submissions at a public meeting or written submissions to the County, may at any time before the final plan of subdivision is approved, appeal any of the conditions imposed by the County to the Tribunal by filing with the County 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 the proposed plan of subdivision if you have made a written request to be notified of changes to the conditions.

No person or public body shall be added as a party to the hearing of an appeal of the decision of the County, including the lapsing provisions or the conditions, unless the person or public body, before the County made its decision, made oral submissions at a public meeting or written submissions to the County, or made a written request to be notified of the changes to the conditions or, in the Tribunal's opinion, there are reasonable grounds to add the person or public body as a party.

Getting Additional Information

Additional information about the application is available for public inspection during regular office hours at the County of Essex at the address noted below or from the Town of Essex.

Mailing Address for Filing a Notice of Appeal:

County of Essex
Attention: Rebecca Belanger, Manager, Planning Services
360 Fairview Avenue West
Essex, ON N8M 1Y6
Tel: (519) 776-6441, Ext. 1325
Fax: (519) 776-4455
rbelanger@countyofessex.ca

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The County of Essex's conditions and amendments to final plan of approval for registration of this Subdivision are as follows:

No. Conditions

1. That this approval applies to the draft plan of subdivision prepared by Dillon Consulting and certified by Chris Oyler, O.L.S., dated February 20, 2024, that shows:
 - Eighteen (18) single detached dwelling lots;
 - One (1) block (Block 19) for a stormwater management facility; and
 - One (1) block (Block 20) for natural heritage protection.

The lands comprising the draft plan of subdivision are legally described as Part of Lots 1 and 2, Concession 12 (Geographic Township of Colchester), Town of Essex, County of Essex.

2. That the Owner be required to enter into a subdivision agreement with the Town of Essex (hereinafter referred to as the Municipality), wherein the Applicant agrees to satisfy all the requirements, financial and otherwise, of the Municipality concerning the payment of development charges (including educational development charges), provisions of roads, installation and capacity of services, including sanitary sewage collection systems, water distribution system, private utilities and stormwater management facilities for the development of the lands within the plan. The final form and content of the Agreement being to the satisfaction of the Municipality.
3. That the subdivision agreement between the Owner and the Municipality contain a provision requiring the owner to notify in writing each person who first offers to purchase any subdivided lot within the plan of subdivision of all approved development charges, including development charges for school purposes, relating to any such lot pursuant to Section 59(4) of the *Development Charges Act* and that the applicant agrees to pay, *at the time of issuance of a building permit*, the appropriate Development Charges in accordance with the Municipality's Development Charges By-Law.
4. That the subdivision agreement between the Owner and the Municipality contain provisions requiring that the Owner provide to the Municipality all servicing plans and reports for the review and final approval by the Municipality in accordance with the Development Standards Manual.
5. That the subdivision agreement between the Owner and the Municipality contain provisions requiring financial contributions be made and/or secured to the Municipality including all required letters of credit, cash securities and insurances.
6. That the subdivision agreement between the Owner and the Municipality be registered against the title of the lands to which it applies prior to the registration of the plan of subdivision.

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7. That the road allowances included in this draft plan shall be shown and dedicated as public highways.
8. That the subdivision agreement contains provisions to the satisfaction of the Municipality regarding the phasing or timing of the development.
9. That the streets shall be named to the satisfaction of the Municipality.
10. That the subdivision agreement between the Owner and the Municipality contain a provision requiring that the Owner be required to provide to the Municipality cash-in-lieu of parkland equal to the appraised value of the standard parkland conveyance (5%) at the time of plan of subdivision approval based on the *Planning Act*.
11. That prior to final approval by the County of Essex, the County is to be advised by the Municipality that this proposed subdivision conforms to the zoning by-law in effect. The Owner shall provide to the Municipality a table of lot areas and lot frontages certified by an Ontario Land Surveyor confirming compliance with the Zoning By-law.
12. That the Owner shall provide easements and agreements 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 0.3 metre road reserves shall be shown on the final plan and conveyed in a form satisfactory to the Municipality, as necessary.
13. That prior to final approval, the Owner shall provide documentation from the Ministry of Tourism, Culture and Sport that the Stage 1-2 Archaeological Assessment completed by Lincoln Environmental Consulting Corp., dated December 2021, has been accepted into the Ontario Public Register of Archaeological Reports and that the site has no cultural value or interest.
14. That the subdivision agreement, between the Owner and the Municipality, contain provisions, to the satisfaction of the Municipality and the Essex Region Conservation Authority, that stipulate that prior to obtaining final approval, for any and all phases of the development, that the Owner will finalize an engineering analysis, to identify stormwater quality and quantity measures, as necessary to control any increase in flows in downstream watercourses, in accordance with the Windsor-Essex Region Stormwater Management Standards Manual and any other relevant municipal/provincial, standards or guidelines, in consultation, with the Essex Region Conservation Authority.
15. That the subdivision agreement between the Owner and the Municipality contain provisions that require that the Owner install the stormwater management measures identified in the final engineering analysis completed, as part of the development for the site and undertake to implement the recommendations contained therein, to the satisfaction of the Municipality and the Essex Region Conservation Authority.

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16. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Essex Region Conservation Authority, that require notice in every agreement of purchase and sale for lots 15 through 18, inclusive, that the properties are subject to Section 28 approvals by the Essex Region Conservation Authority under the Conservation Authorities Act. Additionally, should specify that the rear portion of the lots within 8 metres plus the depth of the drain, may not meet the minimum setback requirement for additional accessory structures. The feasibility of constructing buildings and structures in proximity to the regulated watercourse will be determined through the Essex Region Conservation Authority permitting process in line with applicable legislation.
17. That prior to final approval, the Essex Region Conservation Authority shall require a copy of the fully executed subdivision agreement between the Owner and the Municipality, in wording acceptable to the Essex Region Conservation Authority, containing provisions to carry out the recommendations of the final plans, reports and requirements noted above and to obtain a Development Review Clearance for each phase seeking final approval;
18. That prior to undertaking construction or site alteration activities, any necessary permits or clearances be received from the Essex Region Conservation Authority, in accordance with Section 28 of the Conservation Authorities Act.
19. That the subdivision agreement between the Owner and the Municipality contain provisions that requires the Owner to gratuitously dedicate Block 20 on the draft plan to the Essex Region Conservation Authority, and said conveyances to be in fee simple and free of encumbrances, at no cost to the Essex Region Conservation Authority and be at the Owner's expense.
20. That the subdivision agreement between the Owner and the Municipality includes a provision that exclusionary fencing be installed by the Owner, along rear of Lots 12 to 15 shown on the draft plan, prior to the transfer of lots, to prevent any future encroachments, dumping of lawn waste, etc., onto the Essex Region Conservation Authority property by neighbouring residents, and that there be no new access points created to the Essex Region Conservation Authority owned Greenway.
21. That the Owner provide an easement along those lots that abut the Walker Drain, to the satisfaction of the Municipality, for the purposes of drain maintenance and prohibiting buildings and structures within the easement.
22. That the subdivision agreement between the Owner and the Municipality shall provisions, to the satisfaction of the Municipality, that acknowledges that sanitary allocation equivalent to 18 single detached dwellings for the proposed development will be available for a period of three (3) years commencing on the date of adoption of draft plan approval and that the allocation shall be deemed null and void should in the opinion of the

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corporation, the issuance of building permits has not been obtained within the period specified in the condition.

23. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality, which states that based on the fire hydrant flow test report prepared for this subdivision completed by Dillon Consulting Ltd. the proposed development can be adequately serviced through the existing water distribution system however fire flows however may be problematic and additional mitigative measures may need to be implemented. The Owner agrees to implement the mitigative measures outlined in the fire hydrant flow report as noted below in consultation and to the satisfaction of the Town of Essex.
- Confirmation that the Town's Fire and Rescue Services can contain a fire with the reduce available fire flow.
 - Consideration of the Town securing or dedicating a tanker truck for fire fighting purposes.
 - Each dwelling should consider a sprinkler system. This would require a minimum 25mm water service size. This would also reduce the RFF to 2,000 l/min.
 - Increasing the fire-resistant materials used in the construction of the dwelling.
24. That prior to final approval, the Municipality shall confirm that sewage treatment conveyance capacity and water supply capacity are available for all lots in the proposed development.
25. That the subdivision agreement between the Owner and the Municipality shall contain the following clause:

The Owner acknowledges that an oil, gas or water well ("Well") that is improperly constructed, maintained or abandoned presents a safety risk to humans as well as a potential risk to pollute groundwater resources. The Owner represents and warrants that it has researched the Oil, Gas and Salt Resources Library and the Ministry of Environment, Conservation, and Parks Well Records (together the "Records") and has made itself aware of the presence of any Well on the lands. The Owner acknowledges that not all Wells are recorded or located accurately in the Records. The Owner further represents and warrants that it has:

- i. systematically searched the subject lands for potential Well sites; and*
- ii. taken all other necessary steps to ensure that there are no other Wells on the subject lands and that any Well found has been or will be capped in accordance with the applicable legislation, regulations, guidelines or orders, the proof of which shall be submitted to the Municipality.*

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In the event that an improperly constructed, maintained or abandoned Well is found upon or within any lands either conveyed to the Municipality as a requirement of the subdivision agreement or lands which become owned by and/or under the jurisdiction of the Municipality as a result of the registration of the plan of subdivision, the Owner covenants and agrees to indemnify and save harmless the Municipality for all costs incurred relating to the capping, repairing or otherwise remediating of such Well in accordance with the applicable legislation, regulations, guidelines or orders. It is the intention of the parties that this provision shall survive the closing of any transaction related to the transfer of the applicable lands.

26. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Greater Essex County District School Board, the Windsor Essex Catholic District School Board, and the Municipality, requiring a sidewalk be provided along the internal streets within the proposed plan pursuant to standard municipal requirements to facilitate pedestrian movement, bus routing and stops, and safety of school children.
27. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Greater Essex County District School, the Windsor Essex Catholic District School Board, and the Municipality, requiring notice in every agreement of purchase and sale advising purchasers of lots to be aware that students may not be able to attend the closest neighbourhood school and could be bused to a distant school with available capacity.
28. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Canada Post Corporation and the Municipality, requiring notice in every agreement of purchase and sale advising that mail will be delivered via Community Mail Boxes. Further the developer agrees to note the locations of all Community Mail Boxes within the development, and to notify affected homeowners of any established easements granted to Canada Post to permit access to the Community Mail Box.
29. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Canada Post Corporation and the Municipality, requiring that the Owner provide the following for each community mail box site and to include these requirements on the appropriate servicing plans: any required walkway across the boulevard, per municipal standards; any required curb depressions for wheelchair access, with an opening of at least two metres (consult Canada Post for detailed specifications) and a community mail box concrete base pad per Canada Post specifications.
30. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of Bell Canada and the Municipality, which states that the

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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.

31. That prior to final approval by the County of Essex, the Owner shall submit for review and approval by the Municipality and the County, a draft of the final 12M plan.
32. That prior to final approval by the County of Essex, the County is advised in writing by the Town of Essex how Conditions 1 to 16 inclusive, and Conditions 19 to 31 inclusive, have been satisfied.
33. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 14 to 20 have been satisfied.
34. That prior to final approval by the County of Essex, the County is advised in writing by the Greater Essex County District School Board how Conditions 26 and 27 have been satisfied.
35. That prior to final approval by the County of Essex, the County is advised in writing by the Windsor Essex Catholic District School Board how Conditions 26 and 27 have been satisfied.
36. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Conditions 28 and 29 have been satisfied.
37. That prior to final approval by the County of Essex, the County is advised in writing by Bell Canada how Condition 30 has been satisfied.
38. That prior to final approval by the County of Essex, the County is advised in writing by Enbridge Gas Inc. how Condition 12 has been satisfied.

NOTES TO DRAFT APPROVAL

1. It is the applicant's responsibility to fulfill the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the County of Essex, quoting the file number "**37-T-24003**".
2. It is suggested that the owner make themselves aware of section 144 of the Land Titles Act and subsection 78(10) of the Registry Act.
3. 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 Environment under Section 23 and Section 24 of the Ontario Water Resources Act, R.S.O. 1980.

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4. The Ministry of Environment did not review this subdivision with respect to any groundwater, soil or soil 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 Municipality or the Owner requires this assurance before proceeding, a consultant(s) should be engaged to conduct the necessary investigations.
5. The Ministry of Environment 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 Ministry.
6. The costs of any relocations or revisions to Hydro One Networks Inc. (HONI) facilities or any other local electrical utility that are necessary to accommodate the subdivision will be borne by the developer.
7. Any easement rights of Hydro One Networks Inc. (HONI) or any other local electrical utility are to be respected.
8. The developer should contact the local Hydro One Networks Inc. Services office or other local electrical utility to verify if any low voltage distribution lines may be affected by this proposal. The transmission lines abutting this subdivision operate at either 500,000, 230,000 or 115,000 volts. Section 188 of Regulation 213/91 pursuant to the *Occupational Health and Safety Act*, require that no object be brought closer than 6.0 metres to an energized 500 kV conductor. The distance for 230 kV conductors is 4.5 metres and for 115 kV conductors is 3.0 metres. It is the developer's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the *Act*. The parties should also be aware that the conductors can raise and lower without warning, depending on the electrical demand placed on the line.
9. The developer is hereby advised that prior to commencing any work within the plan, the developer must confirm that sufficient wire-line communication/telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that such infrastructure is not available, the developer is hereby advised that the developer may be required to pay for the connection to and/or extension of the existing communication/telecommunication infrastructure. If the developer elects not to pay for such connection to and/or extension of the existing communication/telecommunication infrastructure, the developer shall be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services, i.e., 911 Emergency Services.

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10. Clearances are required from the following agencies:

Rita Jabbour
Planning Services
Town of Essex
2610 County Road 12
Essex, ON N8M 2X6
rjabbour@essex.ca

Planning Services
Essex Region Conservation Authority
360 Fairview Avenue West
Essex, ON N8M 1Y6
planning@erca.org

Senior Manager
Windsor-Essex Catholic District School Board
1325 California Avenue
Windsor, ON N9B 3Y6
seniormanagerfs@wecdsb.on.ca

Giuliana Hinchcliffe
Greater Essex County District School Board
451 Park Street West
P. O. Box 210
Windsor, ON N9A 6K1
Giuliana.Hinchliffe@publicboard.ca

Bruno DeSando
Canada Post Corporation
955 Highbury Avenue North
London, ON N5Y 1A3
bruno.desando@canadapost.ca

Manager- Planning and Development
Bell Canada
planninganddevelopment@bell.ca

Analyst Land Support
Enbridge Gas Inc.
50 Keil Drive North
Chatham, ON N7M 5M1
ONTLands@enbridge.com

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If the agency's clearance concerns a condition in the subdivision agreement, a copy of the agreement should be sent to them. This will expedite clearance of the final plan. Some agencies may charge a fee to obtain a clearance letter.

11. All measurements in subdivision and condominium final plans must be presented in metric units.
12. The approval of the draft plan will lapse on **May 8, 2027**. It is the responsibility of the applicant 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. The request should include the reasons why an extension is needed and a resolution in support of the extension from the Town of Essex.