

Applicant: Colchester Bay Inc. c/o Wing On Li
File No.: 37-T-24008
Municipality: Town of Essex
Location: PT LT 91, CON 1 (Colchester South)

Date of Decision: February 10, 2025
Date of Notice: February 10, 2025
Last Date of Appeal: March 2, 2025
Lapsing Date: February 10, 2028

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
2. be accompanied by the prescribed filing fee by the Tribunal

How to file an appeal:

1. Appeals are to be submitted to the County of Essex Manager, Planning Services via the Ontario Land Tribunal's (OLT) online e-file service. Go to <https://olt.gov.on.ca/e-file-service/>. If the OLT's e-file service is not working, please contact the Manager, Planning Services at the contact information listed below.
2. Sign in to your My Ontario Account on the e-file service (first-time users will need to register for a My Ontario Account).
3. Submit the appeal via the e-file service and ensure that you select the correct approval authority, which in this case is listed as "Essex (County of)".
4. Pay the fee required by the OLT. The fee schedule and methods of payment can be found on the OLT website at <https://olt.gov.on.ca/fee-chart/>.
5. Anyone filing an appeal that does not use the OLT's e-file portal may submit the required material directly to the County of Essex Manager, Planning Services at the address listed below.

Who Can File An Appeal

At any time before the approval of the final plan of subdivision, the following may appeal any of the conditions imposed by the County of Essex Manager, Planning Services, to the Tribunal by filing a notice of appeal with the County of Essex Manager, Planning Services:

1. The applicant;
2. Any public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority;
3. The Minister; or
4. The Municipality in which the subject land is located.

Only individuals, corporations or public bodies may appeal decisions in respect of a proposed plan of subdivision to the Ontario Land Tribunal. A notice of 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 of the decision of the approval authority, including the lapsing provisions or the conditions, unless the person or public body, before the decision of the approval authority, made oral submissions at a public meeting or written submissions to the council or, in the Ontario Land Tribunal's opinion, there are reasonable grounds to add the person or public body as a party

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 regarding any changes to the conditions of approval unless the person or public body, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority, or made a written request to be notified of the changes to the conditions.

Other Related Applications:

The subject property is not the subject of an application under the Planning Act for a minor variance, consent, an amendment to the Official Plan or Zoning By-Law, or a Minister's zoning order.

Getting Additional Information

Additional information about the application is available by contacting the Manager, Planning Services by email or phone.

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

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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 Alec Mantha, O.L.S., dated July 17, 2024, that shows:
 - Fifty-two (52) single detached dwellings lots;
 - One (1) block for parkland; and
 - Three (3) easements for municipal drains.

The lands comprising the draft plan of subdivision are legally described as Part of Lot 91, Concession 1(Geographic Township of Colchester South), Town of Essex, County of Essex.

2. That the Owner be required to enter into a subdivision agreement with 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.
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 Applicant 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 (for a period of time up to and including two years after final completion of all required municipal infrastructure and services).
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 between the Owner and the Municipality contains provisions to the satisfaction of the Municipality regarding the phasing or timing of the development. That the Owner shall submit plans showing any revised phasing to the Municipality for review and approval if this subdivision is to be developed in more than one registration.
9. That the street shall be named to the satisfaction of the Municipality.
10. That the subdivision agreement between the Owner and the Municipality, contain a provision that the Owner convey Block 53 to the Municipality for parkland purposes.
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 as may be required for services, utility or drainage purposes, and where required by the Municipality, daylight corners and/or 0.3 metre reserves shall be shown on the final plan and conveyed in a form satisfactory to the Municipality, County, or the relevant agency.
13. 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 stipulates, that prior to obtaining final approval, for any phase 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.
14. That the subdivision agreement, between the Owner and the Municipality, contain provisions that requires that the Owner installs the stormwater management measures, for any phase of the development, 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.
15. That an Easement be registered on title in perpetuity, with wording to the satisfaction of the Essex Region Conservation Authority and the Municipality, to allow access by the Municipality to conduct drain maintenance, and to restrict the construction of buildings and structures of any kind on Lots 1, and 12 through 35, inclusive.

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16. 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 or phases seeking final approval.
17. 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*. If the works are located within an area not regulated by Section 28 of the *Conservation Authorities Act*, then a Development Review Clearance must be obtained from the Essex Region Conservation Authority, prior to undertaking construction or site alteration activities.
18. That prior to final approval, all improvements required under the Drainage Act must be completed to the satisfaction of the Essex Region Conservation Authority and the Municipality.
19. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County of Essex, that prior to site alteration of any kind, and final approval by the County of Essex, the Owner shall undertake to ensure that any site alteration will be completed in accordance with the *Endangered Species Act, 2007*, and also in compliance with the Email of Advice from the Ministry of Environment, Conservation, and Parks (MECP), dated January 26, 2023.
20. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County of Essex, that prior to site alteration and site servicing, permits will be obtained from the County of Essex in accordance with County standards. Further, the County requires the geometric design of Street 'A' with County Road 50 for review and approval. A permit is required to be obtained from the County of Essex for the construction of Street "A" in accordance with County By-law #2481. Any and all signage visible from County Road 50 must be identified on the plans and must conform to the County guidelines and requires a County sign permit prior to installation.
21. That the subdivision agreement, between the Owner and the Municipality, contain a provision requiring notice in the purchase and sale agreement for Lot 1 that an access permit is required from the County of Essex. for installation of a driveway.
22. That the subdivision agreement, between the Owner and the Municipality, contain a provision requiring notice in the purchase and sale agreements of Lots 1, 2, 3 and 4 that permits are required to be obtained from the County of Essex for the construction of new structures adjacent to County Road 50. An 85 feet setback from the centre of the right-of-way of County Road 50 will be required.

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23. That the subdivision agreement, between the Owner and the Municipality, contain a provision requiring that the Owner gratuitously convey to the County of Essex a 0.3 metre road reserve along County Road 50 for Lots 2 and 3 – shown as Blocks 54 and 55.
24. That the subdivision agreement, between the Owner and the Municipality, contain a provision requiring that the Owner gratuitously convey to the County of Essex 15 metre by 15 metre daylight triangles at the both access points of Street “A” and County Road 50.
25. That prior to final approval, the Municipality shall confirm that sewage treatment conveyance capacity and water supply capacity is available for all lots in the proposed development, or phase of development.
26. That the subdivision agreement, between the Owner and the Municipality, contain a provision that a fence be installed, in accordance with the Municipality’s Fence By-law, along the rear property lines of Lots 4 to 11 abutting Ambassador Beach Road, the rear property lines of Lots 20 to 35 abutting Santa Ana Avenue where fences do not exist, and the side yard property line of Lot 1 abutting Santa Ana Avenue where a fence does not exist.
27. 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.*

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

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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.

28. 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.
29. 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.
30. 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.
31. 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.
32. 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 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.
33. That prior to final approval by the County of Essex, the Owner shall submit for review and approval by the Municipality, a draft of the final 12M plan.

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34. 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 15 inclusive, and Conditions 18 to 33 inclusive, have been satisfied.
35. That prior to final approval by the County of Essex, the County is advised in writing by the County of Essex Infrastructure Services Department how Conditions 20 to 24 have been satisfied.
36. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 13 to 18 have been satisfied.
37. 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 28 and 29 have been satisfied.
38. 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 28 and 29 have been satisfied.
39. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Conditions 30 and 31 have been satisfied.
40. That prior to final approval by the County of Essex, the County is advised in writing by Bell Canada how Condition 32 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-24008**".
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.
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.

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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.
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

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Kris Balallo
Infrastructure Services
County of Essex
360 Fairview Avenue West
Essex, ON N8M 1Y6
kbalallo@countyofessex.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

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.

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12. The approval of the draft plan will lapse on **February 10, 2028**. 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.