

Applicant: 1552843 Ontario Limited
File No.: 37-T-20004
Municipality: Town of Essex
Location: Part of Lot 12, Second Range of the Gore
(Former Colchester South)

Date of Decision: February 8, 2021
Date of Notice: February 8, 2021
Last Date of Appeal: March 1, 2021
Lapsing Date: February 8, 2024

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/agency input and submissions. A copy of the decision is attached.

When and How to File an Appeal

Notice to appeal the decision to the Local Planning Appeal Tribunal (LPAT) 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 a completed **Appellant Form (A1) Planning Act** available from the LPAT website www.elto.gov.on.ca, and
- (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 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 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 LPAT'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 LPAT 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 Local Planning Appeal 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

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The County of Essex 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 Verhaegen Land Surveyors, a division of J.D. Barnes Ltd., dated July 16, 2020, which shows twenty-six (26) lots for single family dwellings and twenty-three (23) lots for forty-six (46) semi-detached dwelling units for a total of seventy-two (72) dwelling units. **(COMPLETE)**
2. That the Owner enters into a subdivision agreement with the Municipality wherein the Owner 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. **(COMPLETE)**
3. That the subdivision agreement between the Owner and Municipality contain provisions requiring financial contributions be made and/or secured to the Municipality including all required letters of credit, cash securities and insurances. Securities will not be released or reduced until after final completion of all required municipal infrastructure and services and any and all deficiencies have been addressed to the satisfaction of the Municipality. **(COMPLETE)**
4. That the Owner be required to enter into a subdivision agreement with the Municipality and that the Owner shall register the agreement against the title of the lands.
5. That the road allowances included in this draft plan shall be shown and dedicated as public highways, and that dead ends and open sides of road allowances created by this plan of subdivision, shall be terminated in 0.3 metre reserves to be conveyed to the Municipality.
6. That the streets shall be named to the satisfaction of the Municipality.
7. That the subdivision agreement between the Owner and the Municipality contain provisions to the satisfaction of the Municipality regarding parkland conveyance which stipulates that in lieu of the gratuitous dedication of parkland, the Owner shall construct a public parking area, access road and related facilities to them, on Municipal lands, entirely at the expense of the owner without encumbrance in accordance with the parking plan developed by Rood Engineering Inc. submitted March 30, 2020. The agreement shall stipulate that the Owner

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shall construct and complete the parking area in a time period acceptable to the Town and shall post a letter of credit, in favour of the Town, equal to the cost of the stated facilities.

(COMPLETE)

8. That the subdivision agreement contains provisions to the satisfaction of the Municipality regarding the construction of a 2.5 meter multi-use trail along the north side of Street 'A' from the intersection with the east paved shoulder on County Road 13 for the entire length of Street 'A'. Further that the subdivision agreement contain a provision that a notice into all Agreements of Purchase and Sale, Leases and Transfers for lots on Street 'A' making persons aware that the multi-use trail will be constructed on the Town's lands adjacent to their property and that no structures or excavations are to take place beyond their property line without a written permit or written permission of the Town. **(COMPLETE)**
9. The subdivision agreement between the Owner and the Municipality shall contain the following provisions to the satisfaction of the Municipality:
 - a) The Owner agrees to erect a subdivision sign with a map showing the road pattern, the location of community facilities and the trail.
 - b) The Owner further agrees to separately identify the specific trail construction costs in the comprehensive infrastructure letter of credit.
 - c) The Owner further agrees to adhere to a specific trail construction timetable and schedule showing the specific location of the trail with the provision that the trail will be constructed no later than when eighty percent (80%) of the construction permits are issued for the lots flanking Streets 'A' OR within two (2) years of the installation of roads and curbs on Street 'A', whichever comes first.
 - d) The Owner further agrees to the provision for the retention of secured monies to ensure the repair of the trail damaged during construction. **(COMPLETE)**
10. 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.
11. That prior to final approval of any phase in the development, the Municipality shall confirm that sewage treatment conveyance and lagoon capacity, and water supply capacity, are available for all lots in the proposed phase of the development.
12. That the subdivision agreement between the Owner and the Municipality contain 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. **(COMPLETE)**

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13. 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 and the relevant agency.
14. 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.
15. That the Owner provide to the municipality a final storm water management report for the review and final approval by the Municipality in accordance with the Development Standards Manual.
16. That the subdivision agreement between the Owner and the Municipality contain provisions requiring that the Owner provide details on the intended drainage and grading between the proposed development and the existing lots along County Road 13, Pollard Drive, and Poplar Drive. The proposed drainage and grading plan will need to be prepared to the satisfaction of and approved by the Municipality.
17. 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 the Owner will finalize the engineering analysis to identify stormwater quality and quantity measures as necessary to control any increase in flows in downstream watercourses, up to and including the 1:100 year design storm and in accordance with the Windsor-Essex Stormwater Management Standards Manual. **(COMPLETE)**
18. That the subdivision agreement between the Owner and the Municipality contain provisions that requires that the Owner installs the stormwater management measures identified in the 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. **(COMPLETE)**
19. That the subdivision agreement between the Owner and the Municipality contain provisions that states the Owner agrees to construct, entirely at its expense, a stormwater management pond and related facilities on Municipal lands in a location satisfactory to the Director of Infrastructure Services, and as identified in the engineering analysis titled *Harrowland Parkland Estates Development in Harrow Centre, prepared by Rood Engineering Inc. dated March 30, 2020*, as amended by mutual agreement, and undertake to implement the recommendations contained therein, to the satisfaction to the Municipality and the Essex Region Conservation Authority. **(COMPLETED)**

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20. 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.
21. 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.
22. That the subdivision agreement between the Owner and the Municipality contains the following clause:
 - i. The Owner acknowledges that improperly constructed, maintained or abandoned oil, gas and water wells (“Wells”) present a safety risk to humans as well as a potential risk to pollute groundwater resources. The Owner represents and warrants that it has researched Oil, Gas and Salt Resources Library and the Ministry of the Environment and Climate Change Well Records (the “Records”) and has made itself aware of the presence of any Wells 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 is has:
 - i. Systematically searched the lands for potential Well sites; and
 - ii. Taken all other necessary steps to ensure that there are no other Wells on the Lands and that any Well found has been or will be capped in accordance with the applicable legislation, regulations or guidelines, the proof of which shall be submitted to the Municipality.**(COMPLETE)**
23. That the subdivision agreement between the Owner and the Municipality shall contain a provision that the Owner agrees to submit a Construction Management Plan which addresses among other matters, site access, construction traffic, parking for construction trades, material delivery and storage, staging, mud, dust and noise controls to the satisfaction of the Municipality, prior to commencement of subdivision servicing.
(COMPLETE)
24. That the subdivision agreement between the Owner and the Municipality shall contain provisions stipulating that Street “A” access standards must be in accordance with those outlined in the Geometric Design Guide for Canadian Roads, most recent edition, for the County’s review and approval. Further that active transportation facilities must be incorporated into the design/analysis.

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25. 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 sidewalks or recreation pathways as per municipal requirements to facilitate pedestrian movement, bus routing stops and the safety of school children.
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 notice in every agreement of purchase and sale for 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. **(COMPLETE)**
27. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of Canada Post Corporation and the Municipality, requiring notice in every agreement of purchase and sale for purchasers of lots to be aware of the locations of any community mailboxes within or serving the plan and that mail delivery will be provided via community mailboxes **(COMPLETE)**
28. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of Canada Post Corporation and the Municipality, that the Owner shall 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. **(COMPLETE)**
29. That the subdivision agreement between the Owner and the Municipality contain a provision, to the satisfaction of the Municipality and the County, that prior to site alteration of any kind, and final approval by the County of Essex, the Owner shall complete and implement the recommendations contained in the Letter to Advice (reference AYL-L-066-19), which is valid until December 31, 2020, along with any other letters/authorizations/directions from the Ministry of Natural Resources and Forestry, and a certified biologist shall confirm in writing that any site alteration has been completed in accordance with the requirements of any letters/authorizations/directions issued under the Endangered Species Act. **(COMPLETE)**

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30. That the subdivision agreement between the Owner and the Municipality contains provisions to the satisfaction of the Municipality and the County that prior to site alteration and site servicing that permits will be obtained from the County of Essex in accordance with County standards. Further, the County requires the geometric design of Street 'A' and County Road 13 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 13 must be identified on the plans and must conform to the County guidelines and requires a County sign permit prior to installation.
(COMPLETE)
31. 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.
32. That prior to final approval by the County of Essex, the County is advised in writing by the Municipality how Conditions 2 to 19 inclusive, 22 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 17 through 21 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 25 and 26 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 25 and 26 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 27 and 28 have been satisfied.
37. 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 condition 30 has been satisfied.

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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-20004**".
2. We suggest that you make yourself 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 the 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 any further with this plan of subdivision, a consultant(s) should be engaged to conduct the necessary investigations.
5. The Ministry of the 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 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 or any other local electrical utility are to be respected.
8. The developer should contact the local Hydro One office or other local electrical utility to verify if any low voltage distribution lines may be affected by this proposal.
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

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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. The Municipality shall register the subdivision agreement as provided by subsection 51(26) of the Planning Act, R.S.O. 1990 against the land to which it applies, as notice to prospective purchasers.

11. Clearances are required from the following agencies:

Manager of Planning Services
Town of Essex
33 Talbot Street South
Essex, ON N8M 1A8

Planning Services
Essex Region Conservation Authority
360 Fairview Avenue West
Essex, ON N8M 1Y6

Greater Essex County District School Board
451 Park Street West
P.O. Box 210
Windsor, ON N9A 6K1

Windsor Essex Catholic District School Board
1325 California Avenue
Windsor, ON N9B 3Y6

Mr. Bruno DeSando
Canada Post Corporation
955 Highbury Avenue North
London, ON N5Y 1A3

County of Essex Infrastructure Services
360 Fairview Avenue West
Suite 315, Essex, ON, N8M 1Y6

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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. The County of Essex does not require a copy of the agreement. Please note that some agencies may have a fee to provide a clearance letter.

12. All measurements in subdivision and condominium final plans must be presented in metric units.
13. The approval of the draft plan will lapse on **February 8, 2024**. 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 because 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 the Town of Essex.