

Applicant: 1646322 Ontario Ltd.
File No.: 37-T-21002
Municipality: Town of Kingsville
Location: PT LOTS 8, 9, and 10, Con 1, Western Division
(Former Gosfield South)

Date of Decision: August 31, 2022
Date of Notice: August 31, 2022
Last Date of Appeal: September 20, 2022
Lapsing Date: August 31, 2025

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 Ontario Land Tribunal (OLT), formerly 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 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 Kingsville.

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 Brian Coad, OLS, Verhaegan Land Surveyors, a division of J.D. Barnes Ltd., dated August 16, 2019, which shows:
 - One-hundred and forty-nine (149) single detached lots
 - Twenty-eight and a half (28.5) blocks for a total of 434 semi-detached units
 - Four and a half (4.5) blocks for a total of 59 townhouses
 - One (1) commercial block
 - Two (2) blocks for parkland
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.
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.
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.

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7. That the Owner convey to the Municipality for a park or other recreational purposes up to 5% of the land included in the plan. This shall include Blocks 184 and 185 as shown on the draft plan. Alternatively, the Municipality may require cash-in-lieu of all or a portion of the conveyance. Payment of cash-in-lieu for park or other recreational purposes shall be made prior to the issuance of building permits pursuant to Section 42(6) of the Planning Act, R.S.O. 1990, c.P.13, as amended.
8. 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.
9. That prior to final approval of any phase in the development, the Municipality shall confirm that sewage treatment conveyance and capacity, and water supply conveyance and capacity, are available for all lots in the proposed phase of the development.
10. 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.
11. 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.
12. 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.
13. 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.
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 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.

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15. 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.
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.
17. That prior to final approval of any phase of the subdivision, the municipality and ERCA shall be provided with a final stormwater management analysis and grading plan addressing the phase proposed for final approval, and associated impacts of adjacent lands and phases and to ensure that there is no adverse impact.
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. 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.
19. The Developer and the Town covenant and agree that any subdivision agreement entered into between them shall contain provisions requiring the Developer to install, at its own expense, curb cuts, new gates, signs and new trail entrances at the intersection of the Crossing and the Greenway in accordance with ERCA requirements and to their satisfaction.
20. That the subdivision agreement between the Owner and the Municipality contain a provision, to the satisfaction of the Municipality, whereby the Owner shall submit a temporary drainage plan to ensure that the drainage of the surrounding lands and the lands to be developed are not adversely impacted by stormwater.
21. That the subdivision agreement between the Owner and the Municipality contains the following clause:
 - (a) 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

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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 Wells on the Lands and that any Well that is 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.

22. There is a water feature on Lots 4, 5 and 6. That the subdivision agreement between the Owner and the Municipality shall contain a provision which states prior to final approval of the phase that contains the water feature, the feature can be filled in. A geotechnical study shall be submitted to the municipality prior to final approval.
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, safety of the ERCA Chrysler Canada Greenway crossing, 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.
24. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County of Essex, that requires that the Owner construct the roads and highway improvements in accordance with the Traffic Impact Study prepared by F.R. Berry & Associates, dated January 30, 2019.
25. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County of Essex, that requires that a new Traffic Impact Study or revised study be completed for every phase or phases seeking final approval until the roadworks are assumed by the Municipality. At this time, the current TIS was unable to predict all of the requirements for traffic signals or road geometry modifications due to the long project duration. As such, future TIS reports will need to review trip generation and patterns resulting from changes at that time and the developer will be responsible for future mitigation such as geometry modification, safety improvements, traffic operation and signalization of the intersection(s) if required by updated traffic impact studies.

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26. That the subdivision agreement between the Owner and the Municipality shall contain provisions stipulating that the detailed design of Street "A" intersection at CR 20, must be in accordance with the Geometric Design Guide for Canadian Roads, most recent edition, for the County's review and approval including the issuance of a County entrance permit. Further that active transportation facilities must be incorporated into the design/analysis.
27. That the subdivision agreement between the Owner and the Municipality shall contain provisions, to the satisfaction of the Municipality and County Infrastructure Services that the TIS identifies the use of a temporary haul road during construction along the alignment of the future Street "A" with access from County Road 20. The County will require permits for the temporary roadway as well the County will require access to be secured during construction to prevent public access to the site. Also, it should be noted that CR 50 and CR 23 are seasonal load limit highways.
28. That the subdivision agreement between the Owner and the Municipality contain a provision, to the satisfaction of the Municipality, 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 more specifically in compliance with the Permit issued under clause 17(2)(c) AYL-C-008-17 issued by 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 the Permit No. AYL-C-008-17, and any subsequent letters/authorizations/directions issued under the Endangered Species Act, 2007.
29. 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 as per municipal requirements to facilitate pedestrian movement, bus routing stops and the safety of school children.
30. 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.
31. 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

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locations of any community mailboxes within or serving the plan and that mail delivery will be provided via community mailboxes.

32. 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.
33. 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 a subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost”.
34. 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 for every phase.
35. That prior to final approval by the County of Essex, the County is advised in writing by the Municipality how Conditions 2 to 17 inclusive, 19 to 33 inclusive, have been satisfied.
36. That prior to final approval by the County of Essex, the County Planning Services Department is advised in writing by the County of Essex Infrastructure Services Department how Conditions 25 to 27 have been satisfied.
37. 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 19 have been satisfied.
38. 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 29 and 30 have been satisfied.
39. 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 29 and 30 have been satisfied.
40. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Conditions 31 and 32 have been satisfied.

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41. That prior to final approval by the County of Essex, the County is advised in writing by Bell Canada how Condition 33 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-21002**".
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 Kingsville
2021 Division Road North
Kingsville, Ontario
N9Y 2Y9

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

Manager of Transportation Planning & Development
County of Essex
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

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955 Highbury Avenue North
London, ON N5Y 1A3

Manager- Planning and Development, Bell Canada
Email : 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. 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 **August 31, 2025**. 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 Kingsville.