

Applicant: Edward Remark & Sons Limited
File No.: 37-T-13001
Municipality: Town of Kingsville
Location: Part of Lot 3, Concession 1,
Eastern Division (Gosfield South)

Date of Decision: November 9, 2017
Date of Notice: November 9, 2017
Last Date of Appeal: November 29, 2017
Lapsing Date: November 9, 2020

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. A copy of the decision is attached.

When and How to File An Appeal

Notice to appeal the decision to the Ontario Municipal Board 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 OMB website www.eltso.gov.on.ca/omb/forms, and
- (2) be accompanied by the prescribed filing fee in the amount of \$300.00 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 decisions in respect of a proposed plan of subdivision to the Ontario Municipal Board. 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 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 Ontario Municipal Board'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 Ontario Municipal Board 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 regarding any changes to the conditions of approval 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.

Other Related Applications

None.

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: William King, Manager, Planning Services
360 Fairview Avenue West
Essex, ON N8M 1Y6
Tel: (519) 776-6441, Ext. 1329
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 R.C Spencer Associates Inc. and certified by Brian Coad, O.L.S. dated February 28, 2013, that shows a total of one hundred and thirty eight (138) lots for one hundred and ninety-one single detached and semi-detached residential units, one block (139) for storm water management, and two (2) blocks (140 and 141) for land dedications.
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, provisions of roads, installation and capacity of services, sanitary sewerage collection system, water distribution system, 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 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 subdivision agreement between the Owner and the Municipality be registered against the lands to which it applies prior to the registration of the plan of subdivision.
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 5% of the land included in the plan to the Municipality for park or other recreational purposes. Alternatively, the Municipality may require cash-in-lieu of all or a portion of the conveyance.
 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.
 9. That the Owner shall provide easements or conveyances as may be required for services, utility or drainage purposes in a form satisfactory to the Municipality or utility.
 10. That prior to final approval of any phase in the development, the Municipality shall confirm that sewage treatment conveyance and plant capacity, and water supply capacity, are available for all lots in the proposed phase of the development.
 11. 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 the Owner finalize, to the satisfaction of the Municipality and the Essex Region Conservation Authority, the report entitled "Remark Farms Subdivision Storm Water Management Plan" prepared by R.C. Spencer Associates Inc. dated December 2012, and install all stormwater management measures identified in the final report as part of the development of the site.
 12. That prior to final approval the Essex Region Conservation Authority shall be provided with a copy of the fully executed subdivision agreement between the Owner and the Municipality, containing provisions, in wording acceptable to the Essex Region Conservation Authority, to carry out the recommendations of the final plans/reports and requirements noted above in Condition 11.
 13. That prior to undertaking construction or site alteration activities, any necessary permits or clearances be received from the Essex Region Conservation Authority.
 14. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Greater Essex County District School Board and the Municipality, requiring sidewalks or a hard surface pad to facilitate bus stops, student safety and walkers.
 15. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Windsor-Essex Catholic District School Board, the Greater Essex County District School Board, and the Municipality, requiring notice on

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title 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.

16. That prior to final approval, of any phase in the development, 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.
17. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of Canada Post Corporation and the Municipality, requiring notice on the title 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.
18. 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 ESA C-Permit AY-C-003-16, along with any other letters/authorizations/directions from the Ministry of Natural Resources and Forestry, and confirm that any site alteration will be completed in accordance with the Endangered Species Act, 2007.
19. That prior to site alteration of any kind, and prior to final approval by the County of Essex, the Municipality and the County shall be provided with a clearance letter from the Department of Fisheries and Oceans (DFO) confirming compliance with the requirements of the Fisheries Act and the Species at Risk Act (SARA).
20. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County of Essex Engineer, that require that the Owner prepare a Traffic Impact Study, to the satisfaction of the Municipality and the County of Essex Engineer, and to construct any highway improvements identified in the final report as part of the development of the site.
21. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County, requiring that the Owner comply with the recommendations and conclusions contained in the archaeological assessments completed by Archeoworks Inc. dated, March 18, 2014 and June 24, 2014, and the review letter prepared by the Ministry of Tourism, Culture

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and Sport dated July 30, 2014, wherein partial clearance for the development is approved for the Remark Subdivision P1 Site (AaHq-22) and the H2 Site.

22. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Municipality and the County, requiring that the Owner comply with the recommendations and conclusions contained in the archaeological assessments completed by Archeoworks Inc. dated, March 18, 2014 and June 24, 2014, and the review letter prepared by the Ministry of Tourism, Culture and Sport dated July 30, 2014, as it pertains to the Remark Subdivision H1 Site (AaHq-24) as follows:
- a) No construction activities shall take place within this site area, including a 20 metre protective buffer surrounding the site;
 - b) Any construction activities occurring beyond the 20 metre protective buffer and within the 50 metre monitoring zone must be undertaken under the supervision of a licensed archaeologist to ensure there are no destructive activities occurring to the archaeological site;
 - c) Should grading or other soil disturbing activities caused by the development project extend to the edge of the 20 metre protective buffer, the Owner must erect snow-fencing around the archaeological site, including its 20 metre protective buffer;
 - d) No construction or excavation activities or site alteration shall be undertaken on Lots 1 through 4 inclusive and Lots 49 to 56 inclusive, until clearance has been provided in writing from the Ministry of Tourism, Culture and Sport, that all archaeological licensing and technical review requirements have been satisfied, including, at a minimum, the completion of a Stage 3 Archaeological Assessment, and that an archaeological report completed by Archeoworks Inc. has been accepted by the Ontario Public Register of Archaeological Reports and that the site has no further cultural value or interest.
23. That prior to final approval by the County of Essex, the County is advised in writing by the Municipality how Conditions 1 to 11 inclusive, and 14 to 22 inclusive have been satisfied.
24. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 11 to 13 inclusive, have been satisfied.

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25. 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 14 and 15 have been satisfied.
26. 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 Condition 15 has been satisfied.
27. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Condition 17 has been satisfied.
28. That prior to final approval by the County of Essex, the County is advised in writing by the County Engineer how Condition 20 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-13001".
2. We suggest that you make yourself aware of section 144 of the Land Titles Act and subsection 78(10) of the Registry Act.

Subsection 144(1) of the Land Titles Act requires that a plan of subdivision of land that is located in a land titles division be registered under the Land Titles Act. Exceptions to this provision are set out in subsection 144(2).

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

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

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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 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.
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. It is suggested that the Municipality 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:

Mr. Robert Brown
Town of Kingsville
2021 Division Road North
Kingsville, ON N9Y 2Y9

Mr. Mike Nelson
Essex Region Conservation Authority
360 Fairview Avenue West
Essex, ON N8M 1Y6

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

Windsor-Essex Catholic District School Board
Attention: Mr. Gary McKenzie
1325 California Avenue
Windsor, ON N9B 3Y6

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

Mr. Tom Bateman
County of Essex
360 Fairview Avenue West
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.

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 **November 9, 2020**. 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.