

**Applicant:** 1109152 Ontario Ltd. c/o Norbert Bolger  
**File No.:** 37-T-23005  
**Municipality:** Town of Amherstburg  
**Location:** Part of Lots 11, 12 and 13, RP 13  
(Anderdon)

**Date of Decision:** September 28, 2023  
**Date of Notice:** September 28, 2023  
**Last Date of Appeal:** October 18, 2023  
**Lapsing Date:** September 28, 2026

## 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) 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 **Appellant Form (A1) Planning Act** available from the OLT website <https://olt.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 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 Amherstburg.

#### 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:

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**No.      Conditions**

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1. That this approval applies to the draft plan of subdivision prepared by Surveyors on Site Inc. and certified by Christopher John Oyler, O.L.S., dated August 2, 2023, that shows:
  - Eighteen (18) lots for single detached residential units;
  - One (1) block (Block 7) for a stormwater management facility; and
  - Two (2) blocks (Blocks 20 & 21) for open space.

The lands comprising the draft plan of subdivision are legally described as Part of Lots 11, 12, & 13, on Registered Plan 13, in the Town of Amherstburg, County of Essex.

2. That the Owner enters into a subdivision agreement with the Municipality wherein the Owner agrees to satisfy all the requirements, financial (including all required letters of credit, cash securities, insurances, and otherwise), of the Municipality and 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 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, 1997, and the Education Act.
4. That the subdivision agreement between the Owner and the Municipality, where required, contain a provision prepared to the satisfaction of the Municipality, regarding the phasing and timing of the development.
5. 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.

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6. That the road allowances included in this draft plan shall be shown and dedicated as public highways and conveyed to the Municipality on the final 12M Plan.
7. That the streets shall be named to the satisfaction of the Municipality.
8. That prior to final approval by the County of Essex, the County is to be advised by the Municipality that the 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 the Owner shall gratuitously provide easements as may be required for services, utility or drainage purposes in a form satisfactory to the Municipality or utility, and where required by the Municipality, daylight corners and road dedications/ reserves shall be shown on the final plan and conveyed in a form satisfactory to the Municipality.
10. 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.
11. 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, that the Owner implement all recommendations contained within the Environmental Impact Assessment by Sage Earth, dated October 2022 that was prepared for Norbert Bolger for the site located at "Part of Lot 10, Concession 1, Amherstburg, Essex County, Ontario".
12. 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 applicable authority.
13. That the subdivision agreement between the Owner and the Municipality contain provisions that requires that the Owner installs the stormwater management

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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.

14. That all required modifications to the Jeth Drain are to be completed, prior to final approval, in accordance with the plans designed by the Drainage Engineer and approved by the Essex Region Conservation Authority and the Municipality (Drainage report by M. Gerris Consulting -- ERCA permit 722 - 22).
15. 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 in the above conditions.
16. That prior to undertaking construction or site alteration activities, any necessary permits or approvals, be received from the Essex Region Conservation Authority.
17. That the subdivision agreement between the Owner and the Municipality contain provisions, to the satisfaction of the Essex Region Conservation Authority (ERCA), that require notice in every agreement of purchase and sale for lots 6 and 8 through 18, inclusive, that the properties are subject to Section 28 approvals by ERCA under the Conservation Authorities Act. Additionally, it should specify that the rear portion of the lots within 8m plus the depth of the drain, may not meet the minimum setback requirement for additional accessory structures. The ERCA permit process will assess the feasibility of constructing buildings and structures in proximity to the regulated watercourse, Jeth's Drain.
18. That Block 7 be dedicated to the Municipality for stormwater management purposes.
19. That Blocks 20 and 21 be dedicated to the Municipality for maintenance purposes.
20. 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.

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21. 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 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.
22. 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 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.
23. 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.
24. 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.
25. 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.
26. That prior to final approval by the County of Essex, the County is advised in writing by the Municipality how Conditions 1 to 15, inclusive, and 17 to 25, inclusive, have been satisfied.
27. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 12 to 17, inclusive, have been satisfied.

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28. That prior to final approval by the County of Essex, the County is advised in writing by the Greater Essex County District School Board and the Windsor-Essex Catholic District School Board how Conditions 20 and 21 have been satisfied.
29. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Conditions 22 and 23 have been satisfied.
30. That prior to final approval by the County of Essex, the County is advised in writing by Bell Canada how Condition 24 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-23005**".
2. It is suggested 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.

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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 any 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.
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:

Chris Aspila  
Town of Amherstburg  
3295 Meloche Road  
Amherstburg, ON N9V 2Y8  
[caspila@amherstburg.ca](mailto:caspila@amherstburg.ca)

Planning Services  
Essex Region Conservation Authority

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360 Fairview Avenue West  
Essex, ON N8M 1Y6  
[planning@erca.org](mailto:planning@erca.org)

Senior Manager  
Windsor-Essex Catholic District School Board  
1325 California Avenue  
Windsor, ON N9B 3Y6  
[seniormanagerfs@wecdsb.on.ca](mailto: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.Hinchcliffe@publicboard.ca](mailto:Giuliana.Hinchcliffe@publicboard.ca)

Bruno DeSando  
Canada Post Corporation  
955 Highbury Avenue North  
London, ON N5Y 1A3  
[bruno.desando@canadapost.ca](mailto:bruno.desando@canadapost.ca)

Manager- Planning and Development  
Bell Canada  
[planninganddevelopment@bell.ca](mailto: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.

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 **September 28, 2026**. It is the responsibility of the applicant to request an extension of the draft approval if one is needed.



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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 Amherstburg.