

**Applicant:** 1903286 Ontario Inc. and Jack Mocerri  
**And Sons Contracting Ltd.**  
**File No.:** 37-T-15001  
**Municipality:** Town of Lakeshore  
**Location:** Pt Lt 1, Conc. East of Pike Creek (Maidstone)

**Date of Decision:** March 22, 2019  
**Date of Notice:** March 22, 2019  
**Last Date of Appeal:** April 11, 2019  
**Lapsing Date:** March 22, 2022

## 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 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.elfto.gov.on.ca](http://www.elfto.gov.on.ca), 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

The applicant, a person or public body, who before the approval authority made its decision, made oral submissions at a public meeting, or written submissions to the approval authority, may appeal decisions in respect of a proposed plan of subdivision to the LPAT. 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 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 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.

#### 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 Lakeshore.

#### 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's 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 and certified by Roy Simone, O.L.S., dated August 31, 2018, which shows a total of thirteen (13) lots for single detached residential dwellings, four (4) blocks (Blocks 18, 19, 20 and 24) for twelve townhouse residential dwellings, fifteen (15) blocks (Blocks 14 to 17, 21 to 23, and 25 to 32) for thirty (30) semi-detached residential dwellings, one (1) block (Block 33) for stormwater management facility, and two (2) blocks (Blocks 34 and 35) for daylight triangles.
2. That the Owner enters into a subdivision agreement with the Town of Lakeshore, to the satisfaction of the Municipality, wherein the Owner agrees to satisfy all the requirements, financial and otherwise, of the Municipality, including, but not necessarily limited to, the payment of development charges, provisions of roads, sidewalks, fencing and landscaping, grading plans, geotechnical report, construction management plan, fire department access and water supply, temporary construction access and parking for construction trades, 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, all of which shall comply with the latest version of the Municipality's Development Manual, and all previously approved or adopted servicing studies for the overall development area.
3. That the subdivision agreement between the Owner and the Municipality shall contain provisions, to the satisfaction of the Municipality, as follows:
  - a) A provision requiring the Owner to provide a plan showing the location of all fencing on a separate sheet within the required engineering submission and/or landscape submission. All fencing to be in accordance with the Town's Development Manual and Fencing By-law and approved by the Municipality. The fencing shall be located on private property;
  - b) A provision requiring the Owner to, under the requirements of the Drainage Act, enclose sections of the open municipal drain immediately upstream and downstream of the subject lands for maintenance and performance reasons;
  - c) A provision requiring the Owners to enter into a separate landowners' cost sharing agreement for the construction and cost sharing of a portion of Street 'B', and shall provide the municipality with written acknowledgment from the trustee or project engineer, as applicable, advising that the Owners have signed the agreement, that it is in good standing, and that the deeds have been delivered and payments made or

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secured, prior to the Municipality providing final clearance for any phase, to the County of Essex.

4. 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.
5. That the subdivision agreement between the Owner and the Municipality shall contain a provision prepared to the satisfaction of the Municipality, regarding the phasing or timing of the development.
6. 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.
7. That the road allowances included in this draft plan shall be shown and dedicated as public highways.
8. That the streets shall be named to the satisfaction of the Town of Lakeshore.
9. That the Owner convey up to 5% of the land included in the plan to the Municipality for park purposes. 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.
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. 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.
11. 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.
12. That the subdivision agreement between the Owner and the Municipality shall contain provisions, to the satisfaction of the County of Essex Infrastructure Services and the Municipality, as follows:

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- a) That the Owner prepare a Traffic Impact Study (TIS) that meets the requirements of the County of Essex Transportation Impact Study Guidelines, and the Owner shall be responsible for all costs associated with any improvements to County Road 2 as deemed necessary by the TIS;
  - b) That the Owner shall dedicate, at no cost to the County, 15m x 15m daylight corners at the southwest and southeast corners of County Road 2 and Street 'A';
  - c) That the Owner shall enclose, at no cost to the County, the entire length of the Tecumseh Road Municipal Drain adjacent to the subject lands, including catch basins along the south side of County Road 2.
13. That all open sides of road allowances created by this plan be terminated in 0.3 metre reserves to be conveyed to the Municipality.
  14. 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.
  15. 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 undertake an engineering analysis to identify stormwater quality and quantity management measures as necessary to control any increases in flow in downstream watercourses, up to and including the 1:100 year design storm, and install the stormwater management measures identified above, as part of the development of the site.
  16. That prior to undertaking construction or site alteration activities, any necessary permits or clearances be received from the Essex Region Conservation Authority.
  17. That any environmental protection measures recommended in the stormwater management plan required by Condition 15, that are not capable of being addressed under the Ontario Water Resources Act, be implemented through the subdivision agreement.
  18. 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 Windsor Essex Catholic District School Board, requiring sidewalks along all streets in accordance with municipal requirements.

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19. 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 Windsor Essex Catholic District School Board, requiring a 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 bussed to a distant school with available capacity.
20. 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.
21. That the subdivision agreement between the Owner and the Municipality contain a provision, to the satisfaction of the Municipality and VIA Rail Canada Inc., that the following clause be inserted in all offers to purchase, agreements of sale and purchase or lease and in the title deed or lease of each dwelling as follows:  
  
"Warning: Via Rail Canada Inc. or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). VIA will not be responsible for any complaints or claims arising from the use of such facilities and/or operations on, over or under the aforesaid rights-of-way."
22. 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.
23. 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 surrounding lands and the lands to be developed are not adversely impacted by stormwater.
24. That prior to final approval by the County of Essex, the Owner shall provide, to the satisfaction of the Municipality and the County, documentation from the Ministry of Tourism, Culture and Sport, verifying that the Stage 2 archaeological report

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completed by Cultural Resource Management Group Limited has been accepted by the Ontario Public Register of Archaeological Reports and that the site has no cultural value or interest.

25. That prior to site alteration of any kind, and final approval by the County of Essex, the Owner shall provide to the Municipality and the County, a "Letter to Proponent", 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, and shall not contravene, the Endangered Species Act, 2007.
26. 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 implement the recommendations contained in the Environmental Impact Assessment Report prepared by Dillon Consulting dated December 2017, to the satisfaction of the Municipality and the Essex Region Conservation Authority, and, prior to final approval of any phase, to require the preparation and submission of a post-construction report from the appropriate qualified professional that certifies that the mitigation measures and recommendations of the final Environmental Impact Assessment Report have been implemented.
27. That prior to final approval by the County of Essex, the County is advised in writing by the Town of Lakeshore how Conditions 1 to 15 inclusive, and Conditions 17 to 26 inclusive, have been satisfied.
28. That prior to final approval by the County of Essex, the County is advised in writing by the Essex Region Conservation Authority how Conditions 15, 16 and 26 have been satisfied.
29. 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 18 and 19 have been satisfied.
30. 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 18 and 19 have been satisfied.
31. That prior to final approval by the County of Essex, the County is advised in writing by the Canada Post Corporation how Condition 20 has been satisfied.

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32. That prior to final approval by the County of Essex, the County is advised in writing by VIA Rail Canada Inc. how Condition 21 has been satisfied.
33. That prior to final approval by the County of Essex, the County is advised in writing by the County of Essex Infrastructure Services how Condition 12 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-15001".
2. It is suggest 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.
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.

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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:

Ms. Kim Darroch  
Town of Lakeshore  
419 Notre Dame Street  
Belle River, ON N0R 1A0

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

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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

VIA Rail Canada  
Attention: Mr. J.C. Walsh  
50 Drummond Street, Unit C  
Toronto, ON M8V 4B5

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

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.

11. All measurements in subdivision and condominium final plans must be presented in metric units.
12. The approval of the draft plan will lapse on **March 22, 2022**. 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 Lakeshore.