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SUBDIVISION AND CONDOMINIUM APPROVAL PROCEDURES

AN APPLICANT'S GUIDE

INTRODUCTION

The *Land Use Planning and Protection Act, 1996*, assigned approval authority for Plans of Subdivision and Condominium Descriptions to the Municipal Corporation of The County of Lambton on May 22, 1996 (the City of Sarnia was previously given subdivision approval authority through *Bill 163* and the Municipality of Lambton Shores was subsequently given subdivision approval authority on January 1, 2001). County Council delegated the approval authority to the County Manager of Planning and Development Services for draft approval, final approval, changes in draft conditions, extensions and exemptions for Subdivision and Condominium approval. Therefore, all applications made for Plans of Subdivision and Condominium Descriptions within the County of Lambton (except for the City of Sarnia and the Municipality of Lambton Shores) shall be submitted to the County's Planning & Development Services Department.

This document will provide the applicant with information on the Plan of Subdivision/Condominium Plan approval processes in the County of Lambton. It is intended to provide an overview of the steps taken to make application and obtain a decision on a specific proposal.

NOTE: Applicants are strongly urged to seek their own independent legal advice concerning any legal matters raised by new applications, including the meaning of references made to legislation within this document. Often, independent professional planning advice is also required.

1.0 BEFORE APPLYING

a) Discussions with Local Municipal and Planning Staff

Application forms may be obtained from the County of Lambton Planning and Development Services Department. To facilitate the review process, it is strongly recommended that the applicant discuss the plans with the affected municipal staff and consult with County planning staff before the application is formally submitted. Pre-consultation is of significant benefit, since the applicant will become more familiar with the requirements of the County and the affected municipality and will be better able to provide necessary information with the application. The following items should be considered before applying:

b) Conformity with the Official Plan and Zoning By-Law

Circulation of an application will not normally take place unless the application conforms to the Municipal Official Plan in effect or is the subject of a concurrent application to amend the Official Plan. It is the general policy of the County that if the proposal is not permitted by the applicable municipal official plan, that the application is considered to be premature and incomplete and therefore cannot be accepted. If a zoning by-law amendment is required, this may take place at any time prior to the granting of final plan approval, provided the application conforms to the Official Plan. It is recommended that where a rezoning is required, the necessary application be filed concurrent with the subdivision/condominium application.

c) Stormwater Management

Stormwater management and treatment, and sediment and erosion control, are integral components of a subdivision design. The final layout of lots and roads is often directly linked to the design of the stormwater system. **It is therefore very important that a conceptual stormwater quality management plan be given preliminary endorsement by the Ministry of Environment prior to submission of an application for draft plan approval to the County of Lambton.** Wherever possible, stormwater management works should be designed so as to be utilized as an area-wide system rather than subdivision specific. The conceptual stormwater management plan, to be completed by a qualified professional, is also one of several information requirements to accompany the eventual application for a Certificate of Approval (C of A) issued by the Ministry of Environment under the *Ontario Water Resources Act* for the stormwater works. A condition of draft plan approval will require that a C of A be obtained from the Ministry. Therefore, the applicant is directed to contact the Ministry of Environment, Southwestern Region at telephone number 1-800-265-7672 for further information.

d) Subdivisions on Individual Septic or Communal Sewage Treatment Systems

Section 3.2.6 of the *County of Lambton Official Plan* states that the preferred method for servicing new plans of subdivision is on full municipal sewage and water services. However, the *Plan* recognizes that certain areas of the County that are designated for development do not have access to full municipal services. Where a subdivision is proposed to be serviced by individual septic systems or a communal sewage treatment system, the *County Official Plan* requires such development to be supported by studies which include, as a minimum, evaluations of soil percolation rates, impacts on ground water resources, ground water mounding and adjacent water courses. Reserve areas for replacement septic systems will be required when the mode of sewage servicing is individual private sewage systems or communal systems. Applicants will be required to submit soils and hydrogeological studies, having regard for the *Provincial Reasonable Use Policy*, completed by qualified engineers or hydrogeologists with recognized experience in sewage and potable water system designs.

Because the studies referred to above may have significant impacts on the size of the lots within the plan and on the overall design of the subdivision, **applicants are required to include the studies as part of the application for draft plan approval.** The application will not be considered to be complete until the studies have been submitted.

e) Tenant Protection Act

If an application involves the conversion of rental units to condominium tenure, the provisions of the *Tenant Protection Act* (TPA) apply. The *TPA*'s references to conversions speak only to the respective rights of tenants and landlords prior to and after conversion. Specifically, if an owner requires a rental property for him/herself or a family member, notice is provided to the tenant to vacate the premises. However, when there is a conversion from rental to condo units, the owner does not have the right to exercise this option. The tenant has the right of first refusal to purchase the unit and if the tenant chooses not to purchase, the tenant can only be removed for non-payment or other reasons as listed under the *TPA*. Where an application for conversion from rental to condominium tenure is proposed, the applicant will be required to proceed through the Plan of Condominium process.

f) Provincial Policy

Section 3 (5) of the *Planning Act* requires that the application *shall be consistent with the Provincial Policy Statement*. If the proposal is not in keeping with any part of the *Provincial Policy Statement*, justification must be provided.

g) Application of First Registration (previously referred to as Certification of Title)

An application of first registration as required under the *Land Titles Act* will be necessary before the final approved plan of subdivision/condominium can be registered. Since this process can be costly and time-consuming, it is recommended that the applicant discuss this with a solicitor and surveyor as soon as possible.

2.0 THE APPLICATION

- 2.1 The application form, proposed draft plan and any required background studies are to be submitted to the Planning and Development Services Department at the County Administration Building in Wyoming. *Subsection 51 (17) of the Planning Act*, as amended, describes the information that must be incorporated on the proposed draft plan (see Section 4.0 of this Guide).
- 2.2 The application must be completed by the property owner(s) or authorized agent. Where it is being made by the agent, written authorization from the property owner(s) must accompany the application and be shown on the face of the draft plan.
- 2.3 It is the responsibility of the applicant to research and evaluate the site and the proposal to ensure that the development will conform with the interest of the health, safety and welfare of the future residents, either owners or tenants. Sufficient studies for the proper consideration of the application should be carried out prior to making formal application, and these should be included with the application. If further studies are needed to properly review the application, the applicant will be notified of the need to have this work completed and submitted.
- 2.4 If in the opinion of the Planner, the application (including the form and/or plans and supporting studies or documentation) is incomplete, they will be returned to the applicant for completion, correction or clarification prior to processing. The reason for this requirement is to ensure that commenting agencies have adequate information on which to base their comments. This generally helps to avoid undue delay in the approval process.

3.0 APPLICATION FEE

- 3.1 The application must be accompanied by the application fee set by County Council. The current fees are attached as Appendix 1 to this Guide.
- 3.2 This fee may be paid in cash or by cheque or money order payable to The Corporation of the County of Lambton.
- 3.3 An application will not be deemed complete, and therefore will not be processed, unless the relevant fees have been paid.

4.0 DRAFT PLAN REQUIREMENTS

- 4.1 For circulation purposes, the application shall include 20 copies of the plan or sets of plans. 20 photo-reduced copies of the plan or set of plans to an 8.5" x 11" format of a quality suitable for further reproduction are also to be included. If further copies are needed, the applicant will be notified. A CD-ROM containing the plan in a format compatible with AutoCad must be provided.
- 4.2 In accordance with *Section 51 (17) of the Planning Act*, as amended, the plan must be drawn to scale and show the following:

a) **Title**

The following items shall be included in the title block:

- the original township name, lot and concession number;
- if applicable, the Crown grant where the proposed plan of subdivision is located;
- if the current proposal is a re-submission, the previously assigned file number shall be given;
- the scale of the plan indicated in metric. The chosen scale shall be appropriate to show all information clearly;
- the date the plan was prepared. If the plan has been revised and re-submitted, the original date and the dates of any revisions must also be shown;
- certification of the boundaries of the land proposed to be subdivided by an Ontario Land Surveyor;

- the signature of the owner and where the application is made by an agent, a signed statement of authorisation made by the owner;

b) **Streets**

the locations, widths and names (if available) of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts must be shown;

c) **Key Map**

on a small key plan, on a scale of not less than 1: 1000 metric, show all of the land adjacent to the proposed subdivision that is owned by the applicant or in which the applicant has an interest, every subdivision adjacent to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;

d) **Proposed Land Use and Density**

indicate the purpose for which the proposed lots are to be used and the number of lots for each use;

e) **Abutting Land Uses**

indicate the existing uses of all adjoining lands;

f) **Lot Size**

show the dimensions and layout of all the proposed lots;

g) **Site / Natural Features**

natural and artificial features such as buildings or other structures or installations, railways, highways, nature and porosity of the soil, watercourses, drainage ditches, drainage patterns, swamps, flood limits, water's edge, the defined top of bank, wetlands and wooded areas which are within 120 metres or adjacent to the land proposed to be subdivided must be shown;

h) **Water Supply**

indicate the availability and nature of domestic water supplies i.e. private or communal wells or municipal water supply;

i) **Contours**

existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land proposed to be subdivided;

j) **Sewage Disposal**

Municipal Sewage Collection System and Treatment Plant

if sewers are to be installed but not connected until a trunk sewer is available, information regarding timing should be provided in the application;

Private On-site Sewage Systems

if private sewage systems (septic tank systems) are proposed, a separate plan showing the location of each leaching bed and 100% contingency area must be submitted. It is probable that hydrological and geo-technical studies, conducted by a qualified engineering firm with expertise in sewage system design, will be required to be submitted with the subdivision application;

k) **Storm Water Management**

the way in which surface water is to be directed and disposed must be indicated on the draft plan. If the storm sewers are to be installed but not connected until a trunk sewer is available, information regarding timing should be provided in the application;

l) **Easements, Rights-of Ways and Restrictive Covenants**

the nature, location and extent of any restrictions affecting the land proposed to be subdivided, including restrictive covenants or easements must be disclosed.

4.3 An application for approval of a Condominium Description is to be accompanied by a plan that provides the applicable information required by *Subsection 51 (17)* of the *Planning Act* and also shows details such as the location of the building, the number of storeys, surface parking and access points.

5.0 PROCEDURES

5.1 Application

The applicant is solely responsible for the accuracy of all information provided pursuant to these guidelines. Moreover, it is the sole responsibility of the applicant to fill in all the particulars required and to supply all plans necessary to submit a complete application. Where additional copies of the plan are subsequently requested by the Planner, the applicant will be responsible for supplying them.

An official acknowledgement of receipt of a completed application will be given by the Planner within 30 days of receiving the appropriate fee. Fifteen (15) days after a notice of completion or notice of public meeting must be circulated to the prescribed persons.

5.2 Circulation

Following official receipt of the completed application, the County will circulate the application and plans to the affected local municipalities, various agencies, commissions and authorities as may be affected in order to obtain information and recommendations. In most circumstances, County planning staff will request review agencies to respond within sixty (60) days of receiving the draft plan. In some instances an extension may be granted if special concerns are noted. Once this circulation has been completed and the proposal evaluated by County planning staff, a report will be forwarded to the Approval Authority for its consideration.

The following is a list of agencies that would generally be given an opportunity to comment on the proposed plan:

- First Nation reserves (where land is within 1 km of a reserve)
- Lambton Kent County Board of Education
- St. Clair Catholic District School Board
- Conseil scolaire de district des écoles catholiques de Sud-Ouest
- Conseil scolaire de district du Centre Sud-Ouest
- Ontario Ministry of Municipal Affairs and Housing
- Ontario Ministry of Culture
- Ontario Ministry of Transportation (where proposal affects a provincial highway)
- Ontario Ministry of Environment
- Ontario Ministry of Natural Resources
- St. Clair Region Conservation Authority
- Ausable-Bayfield Conservation Authority
- Telecommunications Supplier
- Union Gas
- Cable TV Supplier
- and other agencies, e.g. Hydro One, Bluewater Power, Municipal Utility Commissions, Canadian National Railways, Interprovincial Pipeline, etc., as required or as appropriate.

5.3 Public Notice

Circulation of the application will be conducted by the County's Planning & Development Services Department. Public notification of the draft plan will be carried out by:

- a) Giving notice by personal service or pre-paid first class mail service to every owner of land within 120 metres of the area covered by the proposed plan and every owner of land within 120 metres of any lands owned by the developer which abut the subject lands **and**;
- b) Posting a notice at the site which is clearly visible and legible from a public highway or other place to which the public has access. The County will provide the applicant with a prepared vinyl sign which has been mounted on a 3' x 4' board. The completed sign is to be picked up and erected on the site by the applicant in the manner described above.
- c) Any person or public body that has submitted a written request for notice of an application must be given notice. Neighbouring municipalities and First Nation Reserves are notified if they are within one kilometre of the subject lands.

5.4 Planning Staff Report

The commenting agencies may identify concerns or may request that the County impose various conditions on the approval of the draft plan. Planning staff will review the comments and requests for conditions that are received and prepare a report to the Approval Authority recommending approval or refusal of the application with appropriate conditions.

5.5 Conditions

The applicant and the affected municipal council will be advised of the comments received during the review process and will have opportunities to discuss them with County staff. Conditions requested by agencies will not necessarily be recommended by County planning staff. The applicant and the affected municipality may request that conditions be amended before draft approval is given. All agencies that request a copy of the decision are notified. If requested conditions are not included, the requesting agency may appeal the approval decision to the Ontario Municipal Board. Other Ministries may appeal through the Ministry of Municipal Affairs and Housing for review (One Window Planning & Appeals). It is most likely however, that requested conditions will be included in the staff recommendation unless they are clearly not relevant to the proposed subdivision.

Conditions will normally include such matters as the completion of hydrogeological, storm water management and engineering reports by the applicant's consultants, the signing of a Subdivision Agreement with the host municipality, provision of Letters of Credit to guarantee completion of work associated with the development, and other items intended to ensure that the development will be carried out in a manner consistent with the public interest.

NOTE: Following draft approval, any conditions to the draft approval may be modified. *Subsection 51 (47) of the Planning Act* provides that minor changes may be made without further notice. Changes which are considered to be major are subject to the same procedures respecting review and possible appeal as the original conditions. Requests for amendments to draft approval conditions must be made in writing.

5.6 Public Meeting

Notification of the application and a public meeting to consider the application is required by the *Planning Act*, as amended. Owners of property within 120 metres must be notified of the date and time of the public meeting at least 14 days in advance of the meeting.

The public meeting will be conducted at a regularly scheduled meeting of the local municipal Council. The Approval Authority will hear the application but pursuant to the *Planning Act*, draft approval can be given no sooner than 14 days after the hearing. The application may also be deferred for further review.

The applicant (or agent) will have the opportunity to appear at the public meeting to offer additional or explanatory material regarding the application. It is strongly recommended that the applicant or agent attend this public meeting in the event there are questions that require clarification.

5.7 Matters to be Considered

Section 3 (5) of the *Planning Act* requires that a decision of a council of a municipality *shall be consistent with* policy statements issued by the Minister of Municipal Affairs and Housing and approved by the Lieutenant-Governor in Council.

Section 51 (24) of the *Planning Act* requires that when a draft plan of subdivision is considered, regard must be had to the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to:

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in *section 2* of the *Planning Act*;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and
- (l) the physical layout of the plan having regard to energy conservation.

5.8 Notification of Decision

As set out in *Section 51 (20)* of the *Planning Act*, a decision regarding the draft plan of subdivision/condominium is made a minimum of 14 days after the public meeting. *Section 51 (37)* of the *Planning Act* also stipulates that the notice of draft plan decision shall be sent within 15 days of the decision to the applicant, each person or public body that made written submissions or requested notice of the decision, an affected municipality or any other person or public body prescribed. Any person or public body may, not later than 20 days after the notice of decision is given, appeal the decision of the Approval Authority to the Ontario Municipal Board. *Section 51 (53)* of the *Planning Act*, however, provides that the Ontario Municipal Board may dismiss an appeal without a hearing if, in the Board's opinion, the appeal is not based on land use planning principals, the appeal is not made in good faith or is frivolous or vexatious, the appeal is only made for the purpose of delay, the proposed subdivision is premature, the appellant did not make oral or written submissions to the County of Lambton Planning Department before the decision was given, the appellant has not paid the prescribed fee for an appeal or the appellant has not responded to the Municipal Board's requests for further information.

5.9 Clearing of Conditions

All of the conditions of draft plan approval must be met before the Plan can be given final approval. Agencies that originally requested conditions must indicate in writing that their conditions have been met prior to final approval.

Depending on the work that must be carried out in clearing the conditions, considerable time may lapse between draft approval and final approval. During this time, there may be requests (from agencies, the host municipality or the applicant) to modify the conditions of draft approval. If the changes are not considered minor by the , notification of all persons or public bodies that previously made written submissions, or requested notification of changes, must be carried out. The same appeal procedures, including the right of the owner to appeal to the OMB, apply as for the original submission.

Draft plan approval can also lapse if the conditions are not fulfilled within a set time - typically three years. If the applicant is unable to clear the conditions in time, a request may be made, not fewer than 30 days before expiry, to extend the period of draft approval.

NOTE: Each applicant is responsible for ensuring that the Draft Approval does not lapse or that a request for an extension is filed in writing with the County. If the Draft Approval does lapse, a new application for Draft Approval will be required.

6.0 FINAL APPROVAL

Applicants should submit plans for final approval well in advance (i.e. 2 weeks) of any deadline they may be facing. When all of the conditions of draft approval have been cleared, final approval of the plan of subdivision will be given by the County of Lambton Planning Department. The County will deliver translucent duplicates and paper prints of the approved plan, as required by *Section 25 of O. Reg. 43/96 of the Registry Act*, to the Registry Office in Sarnia. The applicant's solicitor will complete the registration requirements. Please note that some of these procedures (such as the application of First Registration) can be time consuming. Legal and survey advice, along with consultation with Land Registry staff is strongly recommended.

7.0 APPEALS TO THE ONTARIO MUNICIPAL BOARD

Applicants are advised that *Section 51 (39) of the Planning Act* contains provisions dealing with the right of persons (including the applicant) and public bodies to appeal subdivision approval decisions to the Ontario Municipal Board. Such appeals are filed directly with the County. More information about this process can be obtained if necessary.

8.0 ASSISTANCE

If you have any questions regarding the application or if you need to speak to County staff, please contact the Planning and Development Services Department at 519 845-0801, toll-free: 1-866-324-6912 or fax 519 845-3817. Correspondence should be addressed to:

Planning & Development Services Deptment
County of Lambton
789 Broadway Street, Box 3000
Wyoming, ON N0N 1T0

SUMMARY

This list sets out the various administrative steps that comprise the basic framework of the approval process:

1. Pre-consultation (local council, Ministry of the Environment & planning staff);
2. Receipt of application;
3. Request for additional information from the applicant (if required);
4. Acknowledgement letter to applicant when application is deemed to be complete;
5. Formal notification of the affected municipal council;
6. Notification within 14 days of public meeting to property owners within 120 metres of the subject property;
7. Circulation letters, copies of draft plan to affected and prescribed agencies;
8. Status letter - Subdivision/Condominium application (to applicant following receipt of agency comments);
9. Preparation of planning report (with recommendations for conditions of draft approval);
10. Circulation of planning report with recommendations;
11. Public meeting;
12. Decision made regarding the draft plan of subdivision/condominium application a minimum of 14 days after the public hearing;
13. Notice of draft plan decision sent within 15 days of the decision;
14. 20 day appeal period begins the day the Notice of Decision is given;
15. Fulfilling conditions including the preparation and signing of subdivision agreement with the affected municipality;
16. Final approval of plan of subdivision or condominium - registration within 30 days of final approval.

APPENDIX 1

Tariff of Fees in Respect of Subdivision & Condominium Applications

1. The application fee for a plan of subdivision and/or condominium, including final approval and a vinyl notice sign overlay supplied by the County shall be as follows:
 - \$3000.00 for 0-20 Lots;
 - \$4000.00 for 21-50 Lots; and
 - \$6000.00 for 50 plus Lots
2. The application fee for a condominium conversion, including final approval, shall be \$1500.00. This includes the supply of a vinyl notice sign overlay by the County.
3. Notwithstanding Section 2 and 3 above regarding an application for a plan of condominium or condominium conversion, the applicant can apply for an exemption. The fee for processing an exemption application for condominium and/or conversion shall be \$500.00.
4. The fee for processing major revisions to a draft plan of subdivision/condominium or to conditions of draft approval shall be \$200.00.
5. The fee for processing an extension to the lapsing date for a draft plan of subdivision/condominium shall be \$200.00.