

Applicant: Gateway Tower Inc. c/o Peter Valente
File No.: 37-CD-20002
Municipality: Town of Tecumseh
Location: Part of Lot 147, Conc. No. 1 (11870 Tecumseh Rd)

Date of Decision: September 16, 2020
Date of Notice: September 16, 2020
Last Date of Appeal: October 6, 2020
Lapsing Date: September 16, 2023

NOTICE OF DECISION

On Application for Approval of Draft Plan of Condominium Subsection 51(37) of the Planning Act

Approval of Draft Plan of Condominium to the application in respect of the subject lands noted above, is proposed to be given by the County of Essex. All public and/or agency comments have been considered and incorporated as part of the draft conditions. 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, 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 condominium 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 condominium 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 Tecumseh.

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

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The County of Essex's conditions and amendments to final plan of approval for registration of this Condominium are as follows:

No. Conditions

- 1) That this approval applies to the draft plan of condominium, prepared by Verhaegen Stubberfield Hartley Brewer Bezaire Inc., Roy Simone, Ontario Land Surveyor dated June 29, 2020, showing a total of ninety-nine (99) residential units, twenty-nine (29) covered parking units, ninety-nine (99) exclusive use parking spaces, fourteen (14) visitor parking spaces, and four (4) handicap parking spaces on a parcel of land described as Part of Lot 147, Concession Number One, Geographic Township of Sandwich East now in the Town of Tecumseh.
- 2) That prior to final approval, by the Approval Authority, the Approval Authority is to be advised by the Town that the Owner has entered into a site plan control agreement with the Town of Tecumseh wherein the Owner agrees to satisfy all the requirements, design, engineering, financial and otherwise, of the Town concerning but not limited to the payment of development charges, driveway access, surface parking, sidewalks, landscaping details, fencing details, lighting details, installation of services, sanitary sewerage collection system, water distribution system, utilities and stormwater management facilities for the development of the lands, including those works required off-site.
- 3) That prior to final approval by the Approval Authority, the Approval Authority is to be advised by the Town that the Owner has engaged the services of a qualified engineer to complete a Stormwater Management Study to address stormwater quantity and quality to the satisfaction of the Town and the site plan control agreement between the Owner and the Town, where required, contains a provision requiring the construction of the works by the Owner as identified in the Stormwater Management Study.
- 4) That prior to final approval by the Approval Authority, the Approval Authority is to be advised by the Town that this proposed Plan of Condominium conforms to the Zoning By-law in effect.
- 5) That prior to final approval, the Municipality shall confirm that sewage treatment conveyance capacity and water supply capacity is available for the proposed development.

- 6) That the Owner shall submit plans of Condominium pre-approved by the Land Registry Office, showing 99 units for apartments, consisting of, but not limited to covered parking units, parking spaces, landscaping/ open space and driving aisles.
- 7) Prior to final approval, the Owner shall, if required to do so by the Town, submit to and obtain the approval of the Town for the form and content of the Condominium Description and Declaration and the Owner shall incorporate into the Plan and Declaration under Section 7 of the *Condominium Act*, 1998, all right(s)-of-way and easements for vehicular access, on-site traffic circulation, municipal servicing or utility servicing to the satisfaction of the Town.
- 8) Prior to final approval of the Plan, if required to do so by the Town, the Owner shall submit an “as-built” survey and “as-built” servicing drawings to the satisfaction of the Town.
- 9) Prior to the registration of the Plan of Condominium, the Developer shall confirm in writing, to the satisfaction of the Manager of Planning Services that the final development shall comply in all respects with any site plan(s) approved by the Town in accordance with Section 41 of the Planning Act (inclusive of all associated drawings and reports) and the requirements of any Site Plan Agreement registered on title. The Owner shall also provide written confirmation that all of the conditions of Site Plan Approval issued for the Subject Lands have been satisfied.
- 10) The Owner shall pay any outstanding debts owed to the Town, prior to the registration of the Plan of Condominium. The Owner shall confirm to the Town that they have paid all taxes levied, all additional municipal levies, if applicable, development charges and all financial requirements of this development as may be required by the Town. The Owner also certifies acknowledgement of responsibility for the payment of all taxes levied to date, both interim and final, and all taxes levied upon the land until each unit covered under this Condominium is separately assessed (as appropriate).
- 11) The Owner shall submit the condominium declaration and by-laws to the Town Solicitor for review and approval as part of the clearance by the Town of the draft plan of condominium for registration.
- 12) Prior to the registration of the Plan of Condominium, an independent lawyer shall certify and demonstrate that the following provisions and/or warning clauses have been incorporated into the Condominium Declaration or Purchase and Sale Agreements or any rental or lease agreements required for occupancy:
 - a) “That private sidewalks, driveways and parking areas are to be maintain in a snow free condition and void of any obstructions twelve (12) months of the year.”
 - b) “Purchasers/Tenants are advised that the Town will not be providing maintenance or snow removal service for the private condominium driveway.”
 - c) “Purchasers/Tenants should note that families may not be able to be accommodated in the Public/Catholic school nearest to their place of residence and may require busing to a school with available capacity.”
 - d) “Warning: Canadian National Railway Company/VIA 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). CNR/VIA will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

- 13) The Owner shall ensure that the existing municipal infrastructure is sufficient to adequately service the development as outlined in the site servicing briefs, prepared by a professional engineer licensed in Ontario. All underground services and above grade sidewalks and recreationways shall be designed and constructed in accordance with the Town's Development Manual. The sidewalks shall be designed and constructed to facilitate student and pedestrian safety.
- 14) That prior to final approval by the County of Essex, the County is to be advised in writing by the Town of Tecumseh how Conditions 1 to 13 inclusive, have been satisfied.
- 15) That prior to final approval by the County of Essex, the County is to be advised in writing by the Greater Essex County District School Board/Windsor Essex Catholic District School Board how relevant sections of Conditions 12 and 13 have 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-CD-20002".
- 2) It is suggested that the owner make themselves aware of section 144 of the Land Titles Act and subsection 78(10) and 78(11) 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 the Environment under Section 23 and Section 24 of the Ontario Water Resources Act, R.S.O. 1983.
- 4) The Ministry of the Environment did not review this condominium 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 condominium. If either the Municipality or the Owner requires this assurance before proceeding any further with this plan of condominium, 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 condominium. 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 condominium 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 site plan/condominium 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. Brian Hillman
Town of Tecumseh
917 Lesperance Road
Tecumseh, ON N8N 1W9

Windsor Essex Catholic District School Board
1325 California Avenue
Windsor, ON N9B 3Y6

Greater Essex County District School Board
451 Park Street West
Windsor, ON N9A 6K1

If the agency's clearance concerns a condition in the declarations, purchase/sale agreements, residential tenancy agreements, 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) Upon the approval and registration of the final Plan of Condominium, the Owner shall provide to the municipality two (2) paper copies and one (1) USB travel drive of the plan prepared by an Ontario Land Surveyor, on NAD-83 format, UTM Zone 17.
- 14) The approval of the draft plan will lapse on **September 16, 2023**. It is the responsibility of the applicant to request an extension for 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 Tecumseh.
- 15) Prior to presentation of any plans for final approval, it is the responsibility of the applicant to ensure that the proper declarations have been prepared and any amendments to the declarations for the applicable Condominium Corporation have been appropriately addressed.