

An Applicant's Guide to the County of Middlesex Subdivision and Condominium Review Procedures May 2011

Introduction

Approval powers for Plans of Subdivision and Plans of Condominium were delegated by Order of the Minister of Municipal Affairs and Housing to the County of Middlesex, effective July 1, 1998. As such, all applications made for Plans of Subdivision / Condominium within the County of Middlesex shall be submitted to the County of Middlesex c/o Director of Planning & Economic Development.

This document will provide the applicant with information on the subdivision / condominium review process in the County of Middlesex. It is intended to provide an overview of the steps taken to make an application and obtain a decision on a specific proposal.

1.0 BEFORE APPLYING

1.1 Pre-Consultation with Local Municipality and Planning Staff

To facilitate the review process, it is strongly recommended that the applicant discuss the proposal with the affected Municipality and consult County planning staff before an application is submitted. At the applicant's written request, the County will host a pre-consultation meeting between the applicant, the Municipality, and other agencies to identify the issues that must be addressed through the review process.

Prior to the scheduling of a pre-consultation meeting certain information is required so that agencies are able to determine what, if any, issues they may have regarding a proposal. Providing more information up-front allows the involved parties to be appropriately prepared for the meeting and also allows those agencies unable to attend to provide preliminary comments. As such, a plan which shows the proposed street layout, lot layout (including the number of lots and common dimensions), expected phasing, abutting land uses and any other pertinent site features should be prepared and provided to the County prior to pre-consultation.

1.2 Applicant's Responsibility

It is the responsibility of the applicant to research and evaluate the site and the proposal to ensure that the development will have regard to the health, safety, convenience and welfare of present and future inhabitants. Sufficient studies for the proper consideration of the application should be carried out prior to making formal application.

Applicants are strongly urged to seek their own independent legal advice concerning any legal matters raised by an application, including the meaning of references made to legislation within this document. Often, independent professional advice, such as that provided by a planner, surveyor and an engineer, is also required during the subdivision / condominium review process.

1.3 Land Use Planning Policy Conformity

The application shall have regard to matters of Provincial interest and shall be consistent with Provincial Policy Statements issued under Section 3 of the Planning Act. 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;
- l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under Subsection 41(2) of the Planning Act.

It is the policy of the County of Middlesex that an application will be considered to be complete only when it conforms to the County Official Plan and Municipal Official Plan in effect. If a zoning by-law amendment is required, this may take place at any time prior to the granting of final plan approval. It is recommended that where a rezoning is required, the necessary application be filed with the local municipality concurrently with the plan of subdivision / condominium application so that a combined public meeting can be held.

2.0 THE APPLICATION

2.1 Submission Requirements

The application form, proposed draft plan, application fee and any required background studies are to be submitted to the County of Middlesex c/o Director of Planning & Economic Development. If further studies are needed to properly review the application, the applicant will be notified of the need to have this work completed.

2.2 Incomplete Applications

If, in the opinion of the Director of Planning & Economic Development, the application form, proposed draft plan, application fee or any required background studies are 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.

2.3 Application Fee

The application must be accompanied by the application fee and deposit in accordance with the County's Tariff of Fees By-law, made payable by cheque to the 'Treasurer - County of Middlesex'. The application fee is established by County Council under Section 69 of the Planning Act in order to recover the administrative costs involved in processing applications. The deposit will be returned to the applicant in the event that no appeal is lodged pursuant to Section 51(39) of the Planning Act. The current fees are attached as Appendix 1 to this Guide.

2.4 Other Fees

The local municipality and the conservation authority may also collect fees related to their review and processing of an application. For more information concerning their fees, contact the local municipality and the local conservation authority directly.

3.0 THE DRAFT PLAN

3.1 (a) Required Hard Copies

For circulation purposes, the application shall include 12 full size (approx 24" x 36") folded copies of the plan signed by the owner(s) and an Ontario Land Surveyor; and 6 reduced copies of the plan (no larger than 11" x 17"). If further copies are required, the applicant will be notified.

(b) Digital Copies

Digital copies of the plan must be submitted in AutoCAD (.dwg) and PDF formats. The AutoCAD file must be consistent with the following standards:

1. Georeferenced to the NAD83 UTM Zone 17N coordinate system.
2. All classes of features must be separated into different layers (e.g. lot lines must exist on their own layer, with no other types of feature).
3. Each layer should be given a descriptive name so that the class of feature it contains is recognizable.

3.2 Section 51(17) of the Planning Act

In accordance with Section 51(17) of the Planning Act the plan must be drawn to scale and must show the following:

- (a) the boundaries of the land proposed to be subdivided, certified by an Ontario land surveyor;

- (b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
- (c) on a small key plan, on a scale of not less than one centimetre to 100 metres, 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 the land forms the whole or part;
- (d) the purpose for which the proposed lots are to be used;
- (e) the existing uses of all adjoining lands;
- (f) the approximate dimensions and layout of the proposed lots;
- (g) natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, wetlands and wooded areas within or adjacent to the land proposed to be subdivided;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) 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;
- (k) the municipal services available or to be available to the land proposed to be subdivided; and
- (l) the nature and extent of any restrictions affecting the land proposed to be subdivided, including restrictive covenants or easements.

4.0 PLANS OF CONDOMINIUM

4.1 Condominium Approvals

Pursuant to Section 9(2) of the Condominium Act, an application for approval of a Condominium Description is generally to follow the same planning review process as subdivisions. However, the approval authority may exempt certain types of condominium applications from part or all of the review process or any part of the review process deemed unnecessary under Section 9(7) of the Condominium Act as outlined below.

4.2 Types of Condominiums

The Condominium Act provides for several forms of condominium development.

- Standard (Not Phased) - the traditional condominium type
- Standard (Phased) - a standard condominium built in phases
- Amalgamation - where two or more standard condominium corporations amalgamate
- Common Elements - common elements are defined but the land is not divided into units
- Leasehold - the initial term of the lease must be from 40 years to 99 years and a leasehold unit owner can sell a unit without the consent of the landowner

- Vacant Land - each owner may decide what type of structure, if any, will be built on the lot

4.3 Exemption

A condominium (other than a vacant land condominium) may be exempt from the draft plan review process where appropriate. A request for exemption from the full review process may be granted as long as existing official plan policies and zoning by-law provisions permit the development and as long as development requirements such as the provision of services are already satisfied as part of a site-plan agreement that has been registered on title. The local municipality will be consulted in this regard.

4.4 Tenant Protection Act

If an application involves the conversion of rental units to condominium tenure, the provisions of the Tenant Protection Act apply. Where a conversion from rental to condominium tenure is proposed, the proposal will be required to proceed through the review process including the holding of a public meeting.

4.5 Plan of Condominium Plans

In addition to the information outlined in Section 3.0 of this Guide, a condominium plan shall also show site-details such as the location of buildings, the number of storeys, surface parking and access points.

5.0 PROCEDURES

5.1 Pre-Consultation with Local Municipality and Planning Staff

As outlined in Section 1.1, it is strongly recommended that the applicant discuss the proposal with the affected Municipality and consult County planning staff before an application is submitted.

5.2 Application

The applicant is solely responsible for accuracy of all information provided pursuant to these guidelines. Moreover, it is the responsibility of the applicant to complete the application and to supply all plans necessary. When an application is deemed to be complete, the applicant will receive an acknowledgment letter.

5.3 Agency / Ministry Circulation

Following receipt of a complete application, the County will circulate the application, plans and any supporting studies to review agencies in order to obtain comments. The following is a list of agencies that would generally be given an opportunity to comment on a proposed plan.

- Local Municipality
- Adjacent local municipalities (where land is within 1 km)
- Conservation Authority
- Ministry of Municipal Affairs and Housing
- First Nations (where land is within 1 km)
- Thames Valley District School Board

- London District Catholic School Board
- Telecommunications Suppliers
- Union Gas
- other agencies as required or appropriate (e.g. Ontario Hydro, Canadian National Railway, Canadian Pacific Railway, Pipeline companies, etc.)

Please note that through the Provincial 'one-window' planning process the Ministry of Municipal Affairs and Housing may be requested to circulate the proposed plan to the Ministry of Agriculture, Food & Rural Affairs, Ministry of Natural Resources, Ministry of Culture, Ministry of the Environment, or the Ministry of Transportation.

5.4 Notice of Application and Public Meeting

The review process includes the requirement to give Notice of an Application and Hold a Public Meeting at which time individuals and public bodies have an opportunity to make submissions. Pursuant to Section 51(21) of the Planning Act, the Approval Authority requests that the local municipality give Notice of an Application and Hold a Public Meeting. In addition to requesting that the local Municipality hold a public meeting on behalf of the County, the County also looks to the local Municipal Council for a recommendation as to the appropriateness of the development.

5.5 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 County Council recommending approval with appropriate conditions or refusal of the application.

5.6 County Council

County Council exercises the final approval authority responsibility through a standing committee process. All committee and council meetings are open to the public however they are not public meetings under the Planning Act.

5.7 Notice of Decision

Within 15 days of the decision of County Council, a Notice of Decision of draft approval or a Notice of Refusal of draft approval will be given to the applicant, each person or public body that made written request for notice of the decision, the municipality, and any other person or public body prescribed.

NOTE: the applicant will be required to provide paper copies of the draft plan to be circulated with the Notice of Decision in accordance with Section 3.1

5.8 Red Line Revisions

At any time prior to final plan approval, there may be requests (from agencies, the municipality or the applicant) to change the conditions of draft approval and/or to change the layout of the plan. Revisions to a draft plan of subdivision are referred to as "red line" revisions. If the changes are considered minor by the Approval Authority, then no notification is required under the Planning Act. If the changes are considered major by the Approval Authority, the proposed changes are subject to the same procedures respecting review as the original proposal and a public meeting may be required. Submission of red lined plans must be in accordance with

Section 3.1.

5.9 Clearing of Conditions

The decision of County Council to grant draft plan approval is contingent on certain conditions being met by the applicant. These must be met or included in the subdivision agreement prior to the final plan being registered and any lots being sold. Typical conditions include: the completion of final engineering reports, the signing of a subdivision agreement with the local municipality, the completion of any required road improvements, and other items intended to ensure that the development will be carried out in a manner consistent with the public interest.

Following draft plan approval, the process of clearing conditions begins. Depending on the work that must be carried out in clearing the conditions, considerable time may lapse between draft approval and final approval. It is the applicant's responsibility to pursue the required clearance letters and to ensure that the Approval Authority receives all required information to be satisfied that the conditions have been fully finalized.

5.10 Lapsing Date

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 prior to the lapse date, a request may be made not fewer than 60 days before expiry to extend the period of draft approval. A request for an extension should include an explanation of the current status of the Plan and be accompanied by the required fee as set out in Appendix 1 to this Guide. The County will also require confirmation from the Municipality endorsing the extension.

6.0 FINAL APPROVAL

6.1 Final Plan Approval

When all conditions of draft approval have been cleared, final approval of the plan of subdivision will be given by the Approval Authority. Once the final plans have been approved by the Approval Authority, the plans will be delivered to the Land Registrar and the applicant will be notified. The registration of the plan will be carried out by the applicant and registration fees will be the responsibility of the applicant. Registration of the final plans may be completed in phases.

6.2 Certification of Titles Act

Certification of property titles under the Certification of Titles Act will be necessary before the final approved plan of subdivision can be registered. Since certification of titles can be time-consuming, it is suggested that the applicant discuss this with a solicitor and surveyor prior to initiating the review process.

6.3 Final Plan Requirements

The applicant shall submit three (3) mylar copies and four (4) papers copies of the final plans for signing by the Approval Authority. As well, digital copies of the Plan (digital files to be submitted in accordance with Section 3.1(b)) shall also be provided. Please ensure that the appropriate citation from the Planning Act is used.

- Final Plans of Subdivision shall include the Approval Authority Certificate as follows:

“Approval Authority Certificate

This final plan of subdivision is approved by the County of Middlesex under Section 51(58) of the Planning Act, R.S.O.1990, on this __day of _____, ____.

Manager of Planning”

- Final Plans of Condominium shall include the Approval Authority Certificate as follows:

“Approval Authority Certificate

Parts __ & __ approved and Part __ exempted under Section 9 of the Condominium Act and Section 51 of the Planning Act on this __day of _____, ____.

Manager of Planning”

7.0 APPEALS TO THE ONTARIO MUNICIPAL BOARD

The Planning Act provides a number of opportunities for the applicant, the public and public bodies to appeal subdivision / condominium applications and decisions to the Ontario Municipal Board. Such appeals are filed directly with the County of Middlesex c/o Director of Planning & Economic Development. More information about this can be obtained if necessary.

8.0 ASSISTANCE

If you have any questions regarding the subdivision / condominium review process please contact the Planning and Economic Development Department at:

Planning & Economic Development Department	phone (519)434-7321
399 Ridout Street North	fax (519)434-0638
London ON N6A 2P1	e-mail planning@middlesex.ca

Please note that while County of Middlesex Planning & Economic Development is committed to assist the applicant through the plan of subdivision / condominium process, it is ultimately the applicant's responsibility to manage the development through to completion.

9.0 SUMMARY

This list sets out the various steps that comprise the basic framework of the review process.

1. Pre-consultation Meeting
2. Receipt of Application
3. Request for additional information from the applicant (if required)
4. Acknowledgment letter to applicant when application is deemed to be complete
5. Formal circulation to the affected local municipality, various agencies, ministries, etc
6. Public notification of draft plan application and the holding of a public meeting
7. Preparation of planning report for County Council (Approval Authority)
8. County Council makes a decision regarding the draft plan of subdivision / condominium
9. Notice of decision sent within 15 days of decision
10. 20 day appeal period begins the day the Notice of Decision is given
11. Fulfilling conditions including the preparation and signing of subdivision agreement with the local municipality
12. Red-line amendment (if necessary)
13. Extension of the period of draft approval (if necessary)
14. 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

The application fees for a plan of subdivision/condominium shall be \$3,500.00 as set out in Tariff of Fees By-law # 6067.

A deposit of \$2,000.00 as set out in Tariff of Fees By-law # 6067 must accompany the application.

The fee for an extension to draft plan approval is \$300.00 as set out in Tariff of Fees By-law # 6067.