

Applicant:	Brantam Developments Inc.	Date of Decision:	DRAFT
File No.:	39T-MC1902	Date of Notice:	DRAFT
Municipality:	Municipality of Middlesex Centre	Last Date of Appeal:	DRAFT
Subject Lands:	LOBO CON 3 PT LOT 4 RP 33R19922 PARTS 1 TO 3	Lapsing Date:	DRAFT

NOTICE OF DECISION

On Application for Approval of Draft Plan of Subdivision Section 51 of the Planning Act

Approval of Draft Plan of Subdivision to the application in respect of the subject lands noted above was given by the County of Middlesex on **(DATE)**. A copy of the conditions for final plan approval are attached.

When and How to File an Appeal

Notice to appeal the decision to the Local Planning Appeal Tribunal must be filed with the County of Middlesex 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 Director of Planning, at the address shown below and it must,

- (1) set out the reasons for the appeal, and
- (2) be accompanied by the fee prescribed under the Local Planning Appeal Tribunal Act in the amount of \$300.00 payable by cheque to the Minister of Finance, Province of Ontario.

Who Can File An Appeal

Only individuals, corporation or public bodies may appeal the decisions in respect of a proposed plan of subdivision to the Local Planning Appeal Tribunal. 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 of the decision of the Approval Authority, including the lapsing provisions or the conditions, unless the person or public body, before the decision of the Approval Authority, made oral submissions at a public meeting or written submissions to the council or, in the Local Planning Appeal Tribunal's opinion, there are reasonable grounds to add the person or public body as a party.

Right of Applicant or Public Body to Appeal Conditions

The applicant, any public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority, the Minister of Municipal Affairs & Housing or the Municipality may, at any time before the final plan of subdivision/condominium is approved, appeal any of the conditions imposed by the County of Middlesex to the Local Planning Appeal Tribunal by filing with the Director of Planning a notice of appeal.

How to Receive Notice of Changed Conditions

The conditions of an approval of draft plan of subdivision/condominium may be changed at any time before the final plan is given. You will be entitled to receive notice of any changes to the conditions of approval of draft plan of subdivision/condominium if you have made a written request to be notified of changes to the conditions of approval of the draft plan of subdivision/condominium.

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 approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority, or made a written request to be notified of the changes to the conditions.

Other Related Applications: ZBA/14/2019, OPA 45

Getting Additional Information: Additional Information about the application is available for public inspection during regular office hours at the County of Middlesex at the address noted below.

Mailing address for Request to be Notified

County of Middlesex - Planning Department | 399 Ridout Street North | London ON N6A 2P1
T: 519.434.7321 F: 519.434.0638 Email : dvanderwerff@middlesex.ca

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The conditions and amendments to final plan of approval for registration of this Subdivision as provided by the County of Middlesex are as follows:

No.	Conditions
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|----|---|
| 1. | That this approval applies to the draft plan of subdivision prepared and signed by Jason Wilband, OLS dated August 13, 2020 which shows: <ul style="list-style-type: none"> • Lots 1 to 166 for single detached dwellings; • Block 167 for a park; • Block 168 for reserve land for a future road; • Blocks 169 to 174 for medium density residential; • Block 175 for stormwater management; • Block 176 for a walkway; • Blocks 177 to 179 for open space; • Blocks 180 for 0.3 metres reserve; and • Public roads. |
| 2. | <p>a) No development of the Plan of Subdivision may begin until all external infrastructure and services required for the development of the Plan of Subdivision are in place; including municipal water supply, treatment and conveyance infrastructure and sewage treatment and waste water conveyance infrastructure. For the purpose of these conditions, services being “in place” means that the infrastructure exists and is operational to the satisfaction of the Municipality and that capacity in such infrastructure has been formally allocated by the Municipality for use in connection with the development of the Plan of Subdivision. External capacity of any services will be formally allocated through the execution of a Subdivision Agreement for each phase of the development as Municipal capacity allows. Should the Municipal Engineer deem there to be insufficient external capacity for any of the required municipal services, the Municipality has no obligation to provide such capacity within the lapse period, or at any time. The Municipality may include language in each Subdivision Agreement regarding the allocation of external capacity.</p> <p>b) that, in connection with all financing proposals and commitments and all offers and agreements of purchase and sale made by or to the Owner involving all or any part of the land covered by the Plan of Subdivision that has not been registered, there shall be a written acknowledgement given by the other party or parties of item 2.a. above and of receiving a copy of the draft plan conditions which acknowledgement will be produced by the Owner to the Municipality on request.</p> |
| 3. | That the development of the draft plan of subdivision shall be undertaken in phases to the satisfaction of the Municipality. |
| 4. | That dead ends or open sides of road allowances of municipal roads created by this draft plan of subdivision shall be terminated in 0.3 metre reserves and the reserves are to be conveyed to and held in trust by the Municipality. |
| 5. | That the Owner dedicate to the Municipality all applicable blocks and reserves including but not limited to Block 168 for future access to the lands to the west of the subject lands. |
| 6. | Street A shall have a pavement width of 9.0 metres with a 1.5 metres bike lanes on both sides of the roadway to the satisfaction of the Municipality. |

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Street A and Block 168 shall have a right-of-way width of 21.5 metres.

7. That the streets be named and the lots shall be addressed to the satisfaction of the Municipality in consultation with the County of Middlesex. This shall include permanent and temporary road names and municipal address signage during all stages of construction which shall and will be required through the subdivision agreement.
8. That prior to final approval, the County is to be advised by the Municipality that appropriate zoning is in effect for the Plan of Subdivision.
9. That the Owner and the Municipality enter into a subdivision agreement ("Subdivision Agreement") pursuant to Section 51 (26) of the Planning Act to be registered on title of the lands to which it applies prior to the Plan of Subdivision being registered. Further that the Subdivision Agreement shall include provisions that it will also be registered against the lands to which it applies once the plan of subdivision has been registered.
10. That the Subdivision Agreement satisfy all requirements of the Municipality related to financial, legal, planning and engineering matters including but not limited to; grading and drainage, planting of trees, landscaping, provision of community mailboxes, fencing, buffering, street lighting and other amenities, the provision and installation of full municipal water, storm and sanitary services, the installation of underground electrical services, the relocation, abandonment or replacement of existing Municipal Drains that service the subject property and upstream catchment area, and other matters which may be required by the Municipality respecting the development of the Plan of Subdivision, including the payment of Municipal Development Charges in accordance with the Municipality's Development Charge By-Law.
11. If necessary, that the Owner shall enter into an agreement with Canada Post Corporation for the installation of community mailboxes. The subdivision agreement shall include a requirement to notify all prospective lot purchasers of the mailbox(es) location.
12. The Owner shall enter into an agreement with the appropriate service providers for the installation of underground communication / telecommunication utility services for these lands to enable, at a minimum, the effective delivery of the broadband internet services and communication / telecommunication services for 911 Emergency Services.
13. That the Subdivision Agreement shall ensure that the persons who first purchase the subdivided land after the final approval of the plan of subdivision are informed, at the time the land is transferred, of all the development charges related to the development, pursuant to Section 59(4) of the Development Charges Act.
14. That such easements as may be required for utility, servicing, or drainage purposes shall be granted to the appropriate authority, at the expense of the Owner.
15. That prior to final approval, arrangements shall be made to the satisfaction of the Municipality for the relocation of any utilities required for the development of the Plan, which relocation shall be undertaken and provided at the expense of the Owner.
16. That prior to final approval, a Licensed Archaeologist shall provide a letter to the Municipality and the County indicating that there are no concerns for impacts to archaeological sites on the subject lands. This is to be accompanied by a Ministry of Tourism, Culture and Sport letter indicating that the licensee has met the Terms and Conditions for Archaeological Licensing and that the report has been entered into the Ontario Public Register of Archaeological Reports.
17. The Owner is responsible to pay for the 1st month of sanitary flow monitoring in the existing sanitary main on Komoka Road upstream of the Komoka Pumping Station.

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18. The Owner shall be required to upgrade any external linear infrastructure required to support the development to the satisfaction of the Municipality which includes, but not limited to, the upsizing of the existing watermain along Oxbow Drive.
19. The Owner shall pay cash-in-lieu for the urbanization of the west side of County Road 16 (Komoka Road) along the entire frontage of the subject lands.
20. That prior to final approval, the municipality shall advise the County of Middlesex that the Subdivision Agreement between the Municipality and the Owner provides for the following:
 - a) municipal assumption and ownership of any facilities required for the detention and enhancement of stormwater quality (excluding private infrastructure) will not occur until assumption of the final phase of the development;
 - b) the inclusion of any environmental protection measures recommended in the final storm water management plan that are not capable of being addressed under the Ontario Water Resources Act; and,
 - c) assumption of stormwater management diversion channel (Blocks 177 to 179) will not occur until assumption of the final phase of the development.
21. 1.5m high chain-link fencing without gates shall be provided along the east side of lot 115, 116, 127 and 146, south side of lots 146 to 149, and 159 to 166. 1.5m high chain-link fencing without gates will be required along the walkway block 176 adjacent to lots 160 and 161. Upon development of blocks 170 to 174, 1.5m high chain-link fencing shall be installed along the storm water diversion channel and stormwater management block or as otherwise agreed to during the site plan process to the satisfaction of the Municipality. Fencing shall be installed on property line or offset slightly to the private side. All fencing between private property and open space and stormwater blocks will be deemed to be the responsibility of the lot owner.
22. The Owner shall enter into an agreement and acquire an easement with adjacent landowners to provide for the necessary stormwater outlet and that the agreement is to be registered on title of the adjacent property.
23. That the Owner includes traffic calming measures and/or devices to the satisfaction of the Municipality to aid in controlling vehicle speed on the streets proposed within the plan of subdivision. Traffic calming measures shall include but not be limited to:
 - a) Raised Intersections at the following locations:
 - i. Street A & Street B – east
 - ii. Street A & Street B – west
 - iii. Street C & Street D
 - b) Speed Cushions
 - i. Street B east - 1
 - ii. Street B west - 1
 - iii. Street C - 2
24. Sidewalk shall be included on 1-side of Streets B, C, D, and E for the full lengths of the roads. The side of the road will be determined through the detailed design phase. Sidewalk shall be included on both sides of Street A for the entire length.
25. That prior to final approval, the Owner provide any required updates to the following studies to the satisfaction of the Municipality:

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- a) Hydrogeological study (including Chloride Impact Assessment)
 - b) Geotechnical study
 - c) Stormwater management report
 - d) Servicing report
 - e) Noise and Vibration Assessments
26. That prior to final approval, a traffic impact study be completed and reviewed to the satisfaction of the Municipality and County of Middlesex and that recommendations are implemented through the subdivision agreement.
 27. That prior to final approval a noise study be completed and reviewed to the satisfaction of the Municipality, County of Middlesex, Canadian National Railway and Canadian Pacific Railway and that recommendations are implemented through the subdivision agreement.
 28. That the Owner convey up to 5% of the land included in this plan to the Municipality for park purposes and shall include but not be limited to Block 167. Blocks 175 to 179 shall not be included in the dedication calculation. Alternatively, the Municipality may require cash-in-lieu of all or a portion of the conveyance.
 29. The stormwater management plan will be reviewed to the satisfaction of the Upper Thames River Conservation Authority, County of Middlesex (County Engineer), and the Municipality, and shall obtain the necessary approvals from the Ministry of the Environment, Conservation and Parks (MECP).
 30. The Hydrogeological study shall include a Chloride Impact Assessment and will be completed to the satisfaction of the Ministry of the Environment, Conservation and Parks (MECP) and the Municipality, and shall obtain the necessary approvals from the MECP.
 31. A Hold symbol be placed on Blocks 172 and 173 until a Noise Assessment be prepared by qualified professional and the Hold symbol shall remain in place until mitigation methods are implemented through site plan approval of each block for any proposed development on the lands to which the holding symbol applies to the satisfaction of CN Rail and CP Rail and that any recommendations for noise mitigation arising from the Noise Assessment be incorporated into the building design or site plan such that the proposed development meets the Ministry of Environment, Conservation and Parks (MECP) noise criteria.
 32. A Hold symbol be placed on Blocks 169, 170, 171, and 174 until a Noise and Vibration Assessment be prepared by a qualified professional and the Hold symbol shall remain until mitigation methods are implemented through site plan approval for each block for any proposed development on the lands to which the holding symbol applies to the satisfaction of CN Rail and CP Rail and that any recommendations for noise or vibration mitigation arising from the Assessment be incorporated into the building design or site plan such that the proposed development meets the Ministry of Environment, Conservation and Parks (MECP) noise criteria.
 33. The Subdivision Agreement shall require the Owner to include in all offers of Purchase and Sale or Lease, be registered on title, and be included in the lease for each dwelling, warning clauses for lots identified in the Noise and Vibration Assessment prepared by a qualified professional that: a) requires central air conditioning systems to ensure sound levels are within the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks (MECP); b) that provide the option to install central air conditioning systems due to building components that mitigate noise; c) that identify noise levels as a result of rail and road traffic may occasionally exceed

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the noise level limits of the Municipality and the Ministry of the Environment, Conservation and Parks (MECP); and/or d) any additional mitigation measures further identified by the qualified professional.

The noise and vibration attenuation and mitigation methods recommended by a qualified professional for lots identified in the Noise and Vibration Assessment shall be implemented into the design of dwellings on each lot so that noise levels do not exceed the sound level limits of the Municipality and the MECP.

34. The Subdivision Agreement shall require the Owner to include in all offers of Purchase and Sale or Lease for all dwellings within the Plan of Subdivision the following clauses:

“The Municipality of Middlesex Centre assumes no responsibility for noise issues which may arise from the existing or increased traffic of the Canadian National Railway, the Canadian Pacific Railway, Komoka Road (Middlesex County Road #16) or Oxbow Drive as it relates to the interior or outdoor living areas of any dwelling unit within the development. The Municipality of Middlesex Centre will not be responsible for constructing any form of noise mitigation for this development.”

“Sound and dust levels associated with the permitted activities and land uses associated with the operation of the gravel pit located at 9827 Oxbow Drive, Komoka (License # 2199) may occasionally interfere with some indoor and outdoor activities of the dwelling occupants.”

35. The Subdivision Agreement shall require the Owner to include a clause in all offers of Purchase and Sale or Lease agreements and be registered on title, advising that any berm, fencing, or vibration isolation features implemented are not to be tampered with or altered, and further that the owner shall have the sole ownership and responsibility for these features and shall maintain them in accordance with the subdivision agreement and drawings and municipal by-laws.

36. The Subdivision Agreement shall require the Owner to include the following clause in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Canadian National Railway right-of-way:

“Warning: Canadian National Railway Company or its assigns and 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 attenuation measures in the design of the development and individual dwelling(s). Canadian National Railway Company 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.”

37. The Owner shall grant Canadian National Railway Company an environmental easement for operational noise and vibration emissions for all units and blocks within 300 metres of the right-of-way. The environmental easement is to be registered against the subject property in favour of Canadian National Railway Company prior to registration of the Plan of Subdivision. Canadian National Railway Company’s legal fees for drafting of this easement are to be covered by the Owner.

38. The Subdivision Agreement shall require the Owner to include the following clause inserted in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Canadian Pacific Railway right-of-way:

“Warning: Canadian Pacific Railway Company or its assigns and 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

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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 attenuation measures in the design of the development and individual dwelling(s). Canadian Pacific Railway Company 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."

39. A berm, or combination berm and noise attenuation fence, having extensions or returns at the ends, consistent with the recommendations of the accepted noise and vibration report, be erected on adjoining property parallel to the Canadian Pacific Railway right-of-way to the satisfaction of the Canadian Pacific Railway.

At minimum, the berm or combination berm and noise attenuation fence must have (a) a minimum total height of 5.5 metres above top-of-rail; (b) berm minimum height of 2.5 metres and side slopes not steeper than 2.5 to 1; and (c) fence or wall to be constructed without openings and of a durable material weight not less than 20 kg per square metre (4 lb/sw. ft) of surface area.

No part of the berm/noise barrier is to be constructed on railway property.

40. That the Zoning By-law provide a setback of dwellings from the Canadian Pacific Railway right-of-way be a minimum of 30 metres. While no dwelling should be closer to the right-of-way than the specified setback, an unoccupied building, such as a garage may be built closer. The 2.5 metre high earth berm adjacent to the right-of-way must be provided in all instances.

41. A Vibration Report shall be completed to address ground vibration transmission to be estimated through site tests. If in excess of the acceptable levels, all dwellings within 75 metres of the nearest Canadian Pacific Railway track should be protected. The measures employed may be:

- a) Support the building on rubber pads between the foundation and the occupied structure so that the maximum vertical natural frequency of the structure of the pads is 12 Hz;
- b) Insulate the building from the vibration originating at the railway tracks by an intervening discontinuity or by installing adequate insulation outside the building, protected from the compaction that would reduce its effectiveness so that vibration in the building became unacceptable; or
- c) Other suitable measures that will retain their effectiveness over time consistent with the completed Noise and Vibration assessment/report(s).

42. The Owner shall confirm that there is no change in the existing drainage pattern which impacts any railway property. Any proposed alterations to the existing drainage patterns affecting railway property must receive prior concurrence from the Canadian Pacific Railway and Canadian National Railway, and be substantiated by a drainage report to be reviewed by the Canadian Pacific Railway or Canadian National Railway.

43. A 1.83 metre high chain link security fence shall be constructed and maintained along the common property line of the Canadian Pacific Railway by the Developer at their expense. The Developer shall include a covenant registered on title and in all deeds obliging the purchasers of the land which abut the property of Canadian Pacific Railway to maintain the fence in a satisfactory condition at their expense.

44. Any proposed utilities under or over Canadian Pacific Railway property to serve the development must be approved prior to their installation and be covered by the Railway's standard agreement.

45. The Owner shall be required to dedicate lands up to 15 metres from the centerline of construction of County Road 16 (Komoka Road) for road widening purposes to the County of Middlesex.

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46. That any open sides of road allowances along County Road 16 (Komoka Road) created by this draft plan shall be terminated in 0.3 metre reserves to be conveyed to the County of Middlesex.
47. The Owner shall be required to construct an entrance to County Road 16 (Komoka Road) to the satisfaction of the County of Middlesex.
48. That prior to final approval, the County is to be advised in writing by the Municipality of Middlesex Centre, how conditions 1 through 35 have been satisfied.
49. That prior to final approval, the County is to be advised in writing by the Upper Thames River Conservation Authority how condition 29 have been satisfied.
50. That prior to final approval, the County is to be advised in writing by the Canadian National Railway how conditions 27, 31 through 33, 36, 37, and 42 have been satisfied.
51. That prior to final approval, the County is to be advised in writing by the Canadian Pacific Railway how conditions 27, 31, 32, and 34 through 44 have been satisfied.
52. That prior to final approval, the County is to be advised in writing by the County Engineer how conditions 19, 26, 27, 29, and 45 through 47 have been satisfied.

NOTES TO DRAFT APPROVAL

1. Draft approval for this plan of subdivision is for a period of three (3) years from the date of decision. Any request made by the Owner to the Approval Authority to extend the lapsing date must be made 60 days prior to the lapsing date and include a written confirmation from the municipality endorsing the extension.
2. 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 approval authority, quoting the file number.
3. It is suggested that the applicant be aware of:
 - a) subsection 144 (1) of The Land Titles Act, which requires all new plans be registered in a land titles system;
 - b) subsection 144 (2) - allows certain exceptions.
4. Inauguration, or extension of a piped water supply, a communal sewage system or a storm water management system, is subject to the approval of the Ministry of Environment under Section 52 and Section 53 of the Ontario Water Resources Act.
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.
6. A copy of the subdivision agreement must be provided to the County of Middlesex (Planning Department) prior to final plan approval.
7. If the agency's condition 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.
8. When the zoning by-law amendment required in Condition 5 is being prepared, reference to this subdivision application file number should be included in the explanatory note. This will expedite

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the County of Middlesex and other agencies' consideration of the by-law.

9. Clearance is required from the following agencies:

Municipality of Middlesex Centre | 10227 Ilderton Road, Coldstream, ON N0M 2A0

Upper Thames River Conservation Authority | 1424 Clarke Road, London, ON N5V 5B9

Canadian Pacific Railway | 1290 Central Parkway West, Suite 800, Mississauga, ON L5C 4R3

Canadian National Railway | 935 de la Gauchetiere Street West, Montreal, QC H3B 2M9

County Engineer – County of Middlesex | 399 Ridout Street North, London, ON N6A 2P1

10. All measurements in subdivision final plans must be presented in metric units.
11. The final plan approved by the County of Middlesex must include the following paragraph on all copies (3 Mylars and 4 paper) for signature purposes:

*“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
_____, 202____.*

Director of Planning”

12. The final plan must be submitted digitally in AutoCAD (DWG) and Portable Document Format (PDF) with the appropriate citation from the Planning Act used. The AutoCAD (DWG) file must be consistent with the following standards:
- Georeferenced to the NAD83 UTM Zone 17N coordinate system.
 - All classes of features must be separated into different layers.
 - Each layer should be given a descriptive name so that the class of feature it contains is recognizable.
13. The final plan approved by the County of Middlesex must be registered within 30 days or the County may withdraw its approval under Subsection 51(59) of the Planning Act.