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## **Condominium Process Amendments Staff Report to Council**

Report Number: 2021-51

Department(s): Planning Services

Author(s): Meghan White

Meeting Date: June 14, 2021

### **Recommendations**

1. That the report entitled Condominium Process Amendments dated June 14, 2021 be received; and,
2. That Council pass a by-law approving the condominium exemption for Connecticut Lane on the lands legally described as Block 53 on 65M-4683, on the basis that the overall development has been approved through the subdivision approval process for the development of the lands as a residential development and that all of the subdivision and development conditions have been addressed through that process, including the registration of a Subdivision Agreement; and,
3. That Shining Hill Estate Collections Inc. c/o Paul Bailey, 1500 Highway 7 West, Concord ON L4K 5Y4 be notified of this action; and,
4. That Malone Given Parsons Ltd., c/o Lincoln Lo, 140 Renfrew Drive, Suite 201, Markham ON L3R 6B3 be notified of this action; and
4. That Council and staff adopt a new process for applications requesting exemption from the condominium process as permitted by Section 9(3) of the *Condominium Act* as outlined in this report; and,
5. That Council institute a fee of \$4,104.10 +HST for processing an exemption request; and,
6. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Purpose**

The purpose of this report is two fold:

1. This report is recommending an exemption be granted to a specific development application, which is to create a private condominium road within an already approved subdivision (Shining Hill Phase 1); and
2. This report is recommending Council and Staff adopt a process for exempting some applications from the condominium process in certain circumstances.

## Background

Applications for condominium approval can be dealt with in one of two ways, in accordance with the *Condominium Act*. The first method generally involves a process similar to an application for draft plan of subdivision where after appropriate circulation, a proposal receives 'draft' approval which is contingent on the applicant satisfying a number of conditions prior to final approval and registration. The second process is where the approval of the condominium is exempt from the draft or 'conditional' approval stage and proceeds directly to final approval. The exemption process is intended to apply to proposals that have previously undergone a complete evaluation (i.e., a subdivision or site plan approval) and no further conditions of approval are required by the municipality for the development to proceed.

Condominium exemptions are permitted under Section 9(3) of the Condominium Act, 1998 S.O. c.19 and grant the approval authority power to exempt the application from the provisions of Section 51 and 51.1 of the Planning Act. An exemption to Section 51 is essentially an exemption to the full approval process including the requirements to give notice of the application and to hold a Public Meeting and Section 51.1 is the requirement for parkland dedication. Such an exemption is typically warranted if the proposed development has recently undergone *Planning Act* approvals such as Subdivision Agreements and Site Plan Control. In using this exemption process the development proposal would not be skipping the public meeting or the parkland dedication, it would have already happened or would have been taken through an earlier process. The exemption would remove the requirement to re-process and review a proposal that had already been extensively vetted by staff and Council.

The current process is to require a Site Plan Application and Residential Draft Plan of Condominium Application, these are typically applied for after an OPA and/or rezoning process has already been undertaken. The detailed design would be reviewed and approved through the site plan. Once that process had concluded and the applicant had paid their fees and signed the site plan agreement, then staff would bring a report to Council recommending approval of the Draft Plan of Condominium and would be issuing Draft Plan Approval Conditions. There would typically be a few conditions requiring all of the conditions of the site plan agreement be adhered to (which in signing the site plan agreement that applicant would have already done), that all requirements of external agencies had been met (which is also captured in the site plan agreement) and that all the requirements of the Official Plan had been met (which would have been addressed by previous processes).

As the number of complex redevelopment projects increases, especially in the Urban Centres, staff are looking to streamline the development process. This process could save both the developer and staff time and resources without sacrificing any good planning practices or public participation. The exemption would save staff and the applicant from an additional public meeting, which may create confusion, and creating and clearing the draft plan of condominium conditions.

A recent application to create a condominium road in the midst of a residential subdivision has brought this section of the *Condominium Act* to the attention of staff. It has been determined that establishing a process for granting this kind of exemption will be beneficial to staff and proponents.

## **Discussion**

### **Shining Hill Exemption**

Council approved an official plan amendment (OPA 21), a rezoning (ZBL 2018-17) and a draft plan of subdivision (19TN-2018 001) for the development known as Shining Hill Phase 1 in 2018. The applicant signed the Subdivision Agreement December 15, 2020. A location map is attached as Appendix A.

The application for a Draft Plan of Subdivision was approved on April 16, 2018 to permit a residential development comprising of 13 single detached units, 16 semi-detached units, 105 street access townhouses, and 45 rear lane access townhouse units.

The current application is proposing to create a common element condominium, where the common element is the private lane, proposed to service 20 rear lane freehold townhouse units identified as Blocks 44-47 on Plan 65M-4683. The common element is composed of the private lane and associated landscaping. The owners of the rear lane townhouse units will form the Condominium Corporation responsible for the maintenance of the common elements. The proposed condominium plan showing the road and associated lots is attached as Appendix B. No new lots will be created; they were all created by the previous subdivision approval.

The public was consulted on this application through the OPA, rezoning and subdivision processes. The detailed engineering design was completed through the subdivision process. All internal departments have concurred that all matters have been addressed through the subdivision process and all outstanding fees have been paid.

Subsection 9(3) of the Condominium Act allows Council (as the approval authority) to grant an exemption from Sections 51 and 51.1 of the Planning Act to condominium applications where:

- All development matters have been adequately addressed through previous planning act approvals (generally Site Plan or Subdivision Approvals),
- No further approval conditions are required, and
- There are no outstanding fees to be collected

In this case, staff are proposing an exemption from the requirements of Sections 51 and 51.1 of the *Planning Act* in consideration that the development has already been subject to a statutory Public Meeting (OPA, rezoning, and draft plan of subdivision) and subject to detailed engineering design through the subdivision process, which addresses the requirements of Section 51.

Section 51.1 of the *Planning Act* allows for taking of land for purposes of parkland. The parkland dedication for this development has already been addressed through the subdivision process and agreement.

As all technical design and financial requirements have been addressed through the previous completed *Planning Act* applications and as well the public consultation has been completed, there does not appear to be any benefits to subjecting the proposal to additional processes. Staff are recommending the creation of the condominium for the road be exempt from further process and that Council pass a by-law authorizing the exemption and registration of the condominium. The by-law is attached as Appendix C.

## **New Process**

Staff are recommending that the Town institute a formal process to permit for future applications for an exemption. The process would be as follows:

1. The applicant submits a request for a condominium exemption, with an associated fee.
2. The request is circulated to relevant internal departments to confirm all matters have been addressed through the site plan or subdivision process and subsequent agreement(s).
3. Staff would bring forward a by-law to Council, without a report, just as by-laws to remove holding provisions are processed.
4. If approved, the by-law would be sent with the Certificate of Exemption to the Land Registry Office with the condominium plans for registration.

Staff are recommending the same fee that is collected for a Removal of the Holding Provision application (\$4,104.10 +HST), as the process is similar and it is anticipated it will require the same amount of staff time. This may be reviewed in subsequent years after processing some of these applications.

## **Jurisdictional Scan: Other Municipalities**

Staff have reached out to other municipal planning staff to determine which municipalities also use this exemption process and the responses are varied.

The City of Barrie, Town of Georgian Bluffs, Township of Clearview, and Oxford County all use the exemption when appropriate. Specifically Barrie includes a condition in the Site Plan Agreement which requires the applicant to pay any outstanding fees, that their

Legal Department will review the Condominium Disclosure Package (declaration and description), and that a warning clause is registered on title stating that the new lot is not eligible for municipal garbage pick-up (if relevant). They then send a condominium exemption by-law to Council. Barrie charges a total of \$6,000 for this process.

Toronto, Richmond Hill, Markham and Aurora do not formally use the exemption process. They require a public meeting and conditions of draft approval; however, the public meeting is generally at the same time as the public meeting for the other planning processes. Generally, there are minimal conditions of draft approval and final approval follows shortly thereafter. This is typically how Newmarket has been processing condominium approvals.

Municipalities have opted to handle the condominium process differently. Some fold it into other processes and some opt to use the exemption process. Staff are of the opinion that the exemption process is more efficient and straightforward for both staff and applicants.

## **Conclusion**

It is recommended that the Shining Hill common element condominium of a single road be exempt from further processing as the detailed engineering design and public consultation was undertaken through the Official Plan amendment, rezoning and subdivision processes.

Staff are recommending using a new process to exempt condominiums from further processes if the application has already undergone significant planning approval processes (such as those for site plan or subdivision approvals). Given that the creation of condominiums are typically a form of tenure with no land use planning issues and where these applications will have been subjected to a full public process through statutory Public Meetings of other development approvals, it is reasonable to exempt a condominium from further process. It is also recommended that discretion be given to the Director of Planning and Building Services in determining whether an exemption should be granted by bringing forward a by-law to Council without a report.

## **Business Plan and Strategic Plan Linkages**

- Vibrancy on Yonge, Davis and Mulock
- Extraordinary Places and Spaces

## **Consultation**

Planning staff consulted with Legal Services staff, as well as the chair of Development Coordination Committee. Externally, other municipal planning staff were contacted to determine if/how other municipalities use this exemption.

## **Human Resource Considerations**

None.

## **Budget Impact**

Staff are recommending a new application fee of \$4,104.10 +HST to process exemption requests. It is expected that Legal Services may chose to establish a new fee(s) as well.

## **Attachments**

- A. Shining Hill Phase 1 Location Map [with Connecticut Lane highlighted]
- B. Draft Plan of Condominium for Connecticut Lane
- C. By-law granting the exemption to the Shining Hill application

## **Submitted by**

Meghan White, Senior Planner, Development, Planning & Building Services

## **Approved for Submission**

Adrian Cammaert, Manager, Planning Services

Jason Unger, Director, Planning & Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

## **Contact**

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