



Committee Report

To: Warden Mitch Twolan
Members of the Planning and Development Committee

From: Kara Van Myall
Director of Planning and Development

Date: November 19, 2020

Re: Skylark Holdings Condominium Exemption S-2020-011

Staff Recommendation:

That application S-2020-011 for Skylark Holdings Condominium Exemption be refused; and
That Skylark Holdings advance a Plan of Condominium application as outlined.

Background:

A Condominium Exemption application has been received to convert 47 apartment units at 560 Ivings Drive, Port Elgin into condominium units. Twelve of the units are subsidized by the County as affordable rental units under an agreement with the applicant that is set to expire in 2027.

A Condominium Exemption allows a condominium to be created without having to meet certain requirements of the Planning Act, including the requirement for a statutory public notice and meeting process. Typically, these applications are for newly constructed buildings and can be approved by the Secretary-Treasurer of the Land Division Committee by the power vested through the County's Delegation By-law. However, planning staff are of the opinion that there is a broader public interest associated with the proposed apartment conversion related to the need for a public process and potential impacts to the 12 County-funded affordable housing units.

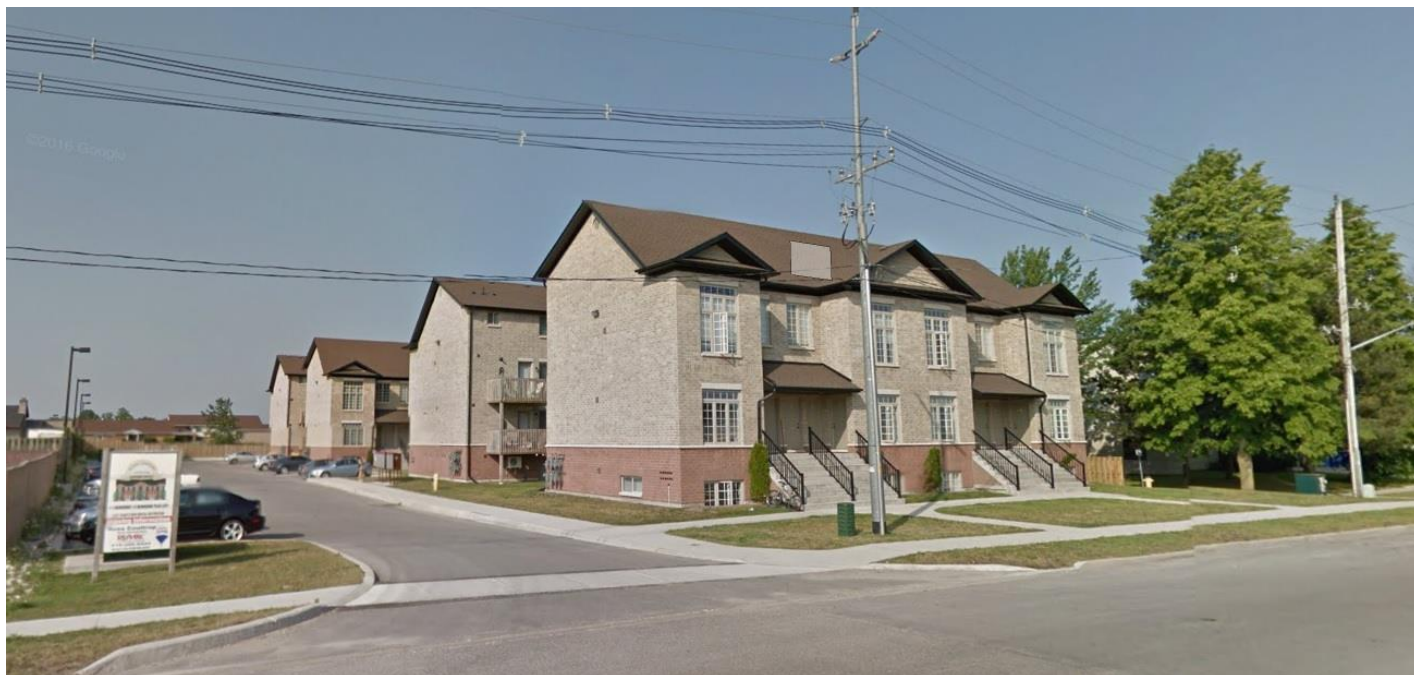
Planning staff are not able to approve the proposed Condominium Exemption in accordance with the Delegation Bylaw due to the outstanding concerns noted above and are seeking direction from Committee regarding the advancement of the application. Should the Committee decide to permit the application to advance, it will be brought forward to Town of Saugeen Shores Council for input before coming back to Planning and Development Committee for a final decision.

Committee can recommend that the applicant bring forward an application through a Plan of Condominium process as opposed to a Condominium Exemption to address the issues highlighted above. A Plan of Condominium application would include a public process and the ability to impose certain conditions. The approvals process for both a Condominium Exemption and a Plan of Condominium are outlined below.

Air photo



Site Image



Plan of Condominium Approvals Process

A Plan of Condominium follows the same approvals process as a Plan of Subdivision as set out in the Planning Act, including a requirement that the condominium obtain Draft Plan approval before the Plan can be final approved and registered. The Planning Act establishes a statutory process for a providing notice and holding a public meeting. The Approval Authority (Bruce County) is also enabled to establish conditions of draft approval that must be satisfied prior to obtaining final approval. A Plan of Condominium application is associated with certain appeal rights regarding the decision or conditions that are imposed.

Condominium Exemption Approvals Process

The Condominium Exemption process allows the County, as the approval authority, to exempt the application from certain requirements of the Planning Act, namely the requirement to first obtain Draft Plan approval. A Condominium Exemption application does not require a statutory public process and therefore there is no public meeting or notice requirement associated with this application. Likewise, the approval authority does not establish conditions of Draft Approval, nor are there appeal rights associated with the decision.

Condominium Exemption applications are commonly used to facilitate a change in tenure type where the development has already been constructed and municipal interests have been satisfied. Generally, Condominium Exemption are not associated with a change in the built form. In this sense, there are normally negligible changes to the neighbourhood context and broader public participation is not warranted.

In Bruce County, Condominium Exemptions are most often used on blocks established in subdivision approvals to create condominium townhouse units on recently built structures. The process is generally administrative in nature and approved through the delegated approval authority vested to the Secretary-Treasurer of the Land Division Committee.

Notwithstanding the above, the Condominium Act affords the approval authority with broad discretion regarding the application of the exemption process. As such, the approval authority may refuse an exemption request if there is a broader public interest associated with the proposal.

Analysis

Staff have advised the applicant that a Plan of Condominium application is the preferred process to advance this proposal, however, the applicant would like to continue advancing the Condominium Exemption application. They have sought to address concerns regarding public process and impacts to the County-funded affordable housing units in the Planning Merit Letter and Addendum Planning Letter (attached).

The County's Delegation By-law permits the Secretary-Treasurer of the Land Division Committee to approve Condominium Exemptions if there are no outstanding concerns. Considering the lack of public process and potential impacts to County-funded affordable housing units within the complex, County staff are not in a position to approve the application in accordance with the County's Delegation By-law and are seeking direction from Committee regarding the advancement of the Condominium Exemption application.

Interdepartmental Consultation:

Housing Services was consulted in the preparation and review of this report.

Financial/Staffing/Legal/IT Considerations:

A Condominium Exemption application approval cannot be appealed to the Local Planning Appeal Tribunal. The County's Solicitor has been engaged regarding the agreement between the County and the applicant for the affordable rental units.

Report Author:

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Departmental Approval:

Kara Van Myall
Director, Planning and Development

Approved for Submission:

Sandra Datars Bere
Chief Administrative Officer