



Report to: Development Services Committee

Report Date: January 17, 2012

SUBJECT: Draft Plans of Condominium and Public Meetings
PREPARED BY: Geoff Day, Senior Planner, West Development District
REVIEWED BY: Tom Villella, Senior Project Coordinator of Zoning and Special Projects
FILE #: PR 11 130999

RECOMMENDATION:

THAT the Staff report, entitled "Draft Plans of Condominium and Public Meetings" dated January 17, 2012, be received;

THAT the By-law attached as Appendix 'A' to delegate authority to the Director of Planning and Urban Design or designate to exempt, at their discretion, the requirement for a statutory Public Meeting held in accordance with clause 51(20)b of the *Planning Act* R.S.O. 1990, c.P.13 as amended, in regards to a vacant land condominium description and/or common elements condominium description, be sent directly to Council and enacted without further notice;

AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable

BACKGROUND:

Prior to the passing of Bill 51 (Planning and Conservation Land Statute Law Amendment Act) in October of 2006, condominium approvals could be delegated to an appointed officer of the municipality pursuant to Section 51 of the *Planning Act*. The Town's Site Plan Delegation By-law 2002-202, as amended, delegated all condominium approvals to the Director of Planning and Urban Design.

In the past, there had not been a requirement to hold statutory Public Meetings for any kind of condominium application. Bill 51 however, has made numerous changes to the Planning Act. One of these changes is that statutory Public Meetings are now required in the case of vacant land condominiums and common elements condominiums. These condominium types are defined as follows:

Vacant Land Condominium – where common elements and units are created but no buildings or structures have been constructed at the time of registration of the condominium plan.

Common Elements Condominium - contains common elements only and not units. Owners of freehold properties will have common interests in the common elements (such as open spaces areas, laneways etc). Common interest runs with the land, not the owner.

Typically, a condominium application is tied to other planning applications that would already require a statutory public meeting (rezoning only or rezoning with an Official Plan Amendment). For example, a statutory Public Meeting was recently held for a parcel of land in the Cathedral Community owned by Monarch Developments. The applications were for rezoning and site plan approval of a 'future' common element condominium townhouse development. It was only after the approvals of this development had occurred that a formal condominium application was submitted. Under the policies of Bill 51, an additional statutory Public Meeting would be required. In this regard, the usefulness of having an additional statutory Public Meeting is questionable given that a condominium is a form of tenure and there are typically no land use planning issues.

OPTIONS/DISCUSSION:

Condominiums are treated like subdivisions under the *Planning Act*, and the relevant *Planning Act* provisions apply. Section 9(2) of the *Condominium Act* states:

"Subject to this section, the provisions of sections 51, 51.1 and 51.2 of the Planning Act that apply to a plan of subdivision apply with necessary modifications to a description or an amendment to a description."

In this regard and similar to plans of subdivision, a statutory Public Meeting is required for vacant land or common element condominium applications. Clause 51 (20)(b) of the *Planning Act* states that:

"(20) At least 14 days before a decision is made by an approval authority under section (31), the approval authority shall ensure that...

(b) a public meeting is held, if required by regulation, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed."

Ontario Regulation 544/06 – Plans of Subdivision, also applies. In particular, section 5 of the regulation states:

"Public meeting (s. 51 (20) (b) of Act)

- 5. (1) If the land that is the subject of an application for approval of a plan of subdivision under subsection 51 (16) of the Act is located in a municipality or in the planning area of a planning board, the approval authority shall ensure that a public meeting is held under clause 51(20)(b)..."*

The public meeting provisions of the Regulation only applies to "vacant land" or "common elements" condominiums as follows:

“Condominiums

7. *Sections 3 to 6 do not apply to an application for approval of a condominium description, other than an application for approval of a vacant land condominium description or a common elements condominium description.”*

However, despite these regulations in the *Planning Act*, the *Condominium Act* states that the Town can exempt vacant land or common elements condominium descriptions from the provisions of section 51. In particular, section 9(10) of the *Condominium Act* states:

“Exemption made by municipality

(10) If the Minister of Municipal Affairs and Housing is not the approval authority, the approval authority may by by-law provide that the provisions of sections 51 and 51.1 of the Planning Act that apply to a plan of subdivision do not apply to a class of description or an amendment to a class of description specified in the by-law.”

CONCLUSION:

Given that the creation of condominiums are typically a form of tenure with no land use planning issues and where most of these new or existing developments have been subjected to a full public process through statutory Public Meetings (rezoning or Official Plan Amendment), it is reasonable to exempt condominiums from clause 51 (20)(b) of the *Planning Act*. It is also recommended that discretion be given to the Director of Planning and Urban Design in determining whether a public meeting is needed.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

None

HUMAN RESOURCES CONSIDERATIONS


None

ALIGNMENT WITH STRATEGIC PRIORITIES:

None

BUSINESS UNITS CONSULTED AND AFFECTED:

None

RECOMMENDED BY:

Rino Mostacci, M.C.I.P., R.P.P.
Director of Planning and Urban Design



Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development Services

ATTACHMENTS:

Appendix 'A' – Draft By-law



A by-law to exempt draft common element and vacant land plans of condominium from having a statutory Public Meeting

WHEREAS Section 9(10) of the *Condominium Act* permits the approval authority to, by By-law provide that the provisions of sections 51 and 51.1 of the *Planning Act* not apply to a draft plan of condominium.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. That authority be delegated to the Director Of Planning and Urban Design or designate, to exempt at their discretion, the requirement for a statutory Public Meeting held in accordance with clause 51(20)b of the *Planning Act* R.S.O. 1990, c.P.13, as amended, in regards to a vacant land condominium description and/or common elements condominium description.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 24TH DAY OF January, 2012.

KIMBERLY KITTERINGHAM
TOWN CLERK

FRANK SCARPITTI
MAYOR