



**Subject: Condominium Exemption Request – 118 West Street – SouthPort Condo**

**To: Council**

**From: Development and Legislative Services Department**

Report Number: 2023-190

Meeting Date: September 26, 2023

---

### **Recommendation:**

That Development and Legislative Services Department – Planning Division Report 2023-190 be received; and

That Council approve the request for exemption from draft plan of condominium for SouthPort Condos at 118 West Street; and

That the Mayor and Clerk be authorized to sign the Certificate of Exemption attached as Appendix A; and

That the Chief Planner be delegated to sign the final condominium plans once provided by the applicant.

---

### **Purpose:**

The purpose of this report is to provide Council with a recommendation regarding a request for an exemption from draft plan of condominium approval for the property at 118 West Street, known as the SouthPort Condo building in the City of Port Colborne.

---

### **Background:**

The City has received a request for condominium exemption made by the owner SouthPort Condos Inc. for the development at 118 West Street (Appendix B). The property is located on the west side of West Street.

Construction on the building is underway under an existing site plan agreement and associated building permit. SouthPort Condos Inc. received site plan approval in 2021 to permit the construction of a 74-unit residential apartment building with main floor

commercial uses. The developer's intention for the building is to be under condominium tenure, in which each dwelling unit can be transferred and owned independently.

The provisions of the *Planning Act* support condominium exemptions provided the development meets certain criteria and the municipality grants an exemption certificate.

Section 9 of the *Condominium Act* refers to how plans of subdivision in the *Planning Act* also apply to condominiums.

Two types of exemptions are offered for condominiums in Ontario.

- a. Under the *Planning Act*, O.Reg. 544/06, Section 7 – Certain applications for Condominium Description can be exempt from public notice/meeting requirements and can go straight to Council for approval. In this case, an application under the *Planning Act* for Draft Plan of Condominium is still required.
- b. Under the *Condominium Act*, Section 9 (6) & (7) – An exemption from the *Planning Act* application requirement is available for condominium developments subject to the following conditions:
  - i) The approval authority retains the right to determine that the condominium shall be subject to *Planning Act* sections 51 & 51.1.
  - ii) The municipality authorizes a “Certificate of Exemption” (Appendix A).
  - iii) The approval authority may grant an exemption if it believes the situation is appropriate.

The request made by SouthPort Condos Inc. is a request for exemption made under section “b” above, being Section 9 of the *Condominium Act*.

---

## Discussion:

Staff has reviewed relevant sections of the *Planning Act* and City of Port Colborne Official Plan.

Section 51 of the *Planning Act* states the following:

Subsection 24: “*In considering a draft plan of subdivision [condominium], regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality...*”

and,

Subsection 25: “*The approval authority may impose such conditions to the approval of a plan of subdivision [condominium] as in the opinion of the approval authority are*

*reasonable, having regard to the nature of the development proposed for the subdivision...*"

The City of Port Colborne Official Plan provides a number of requirements for Site Plan Control under section 11.3.2. A number of these requirements correspond with the conditions the *Planning Act* allows municipalities to impose.

As referenced previously, a full site plan agreement was registered on title in 2021 to permit the construction of the building. The City is currently holding financial securities to ensure the development of the site is undertaken in accordance with the approved plans. Any requirements that would typically be reviewed through the condominium approval process have been adequately addressed through the site plan control process and registered on the title of the property. Based on the above, staff are satisfied that an exemption from condominium approval is appropriate in this circumstance.

---

### **Internal Consultations:**

Comments from applicable departments and agencies were previously addressed through the site plan approval process. There are no outstanding comments with respect to the site's development.

---

### **Financial Implications:**

There are no financial implications.

---

### **Public Engagement:**

Public engagement is not applicable with respect to condominium exemptions.

---

### **Strategic Plan Alignment:**

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
  - Increased Housing Options
  - Sustainable and Resilient Infrastructure
-

## **Conclusion:**

Staff recommend that this condominium exemption request be approved as all applicable matters have been previously addressed through the site plan control process.

---

## **Appendices:**

- a. Certificate of Exemption
- b. Request for Exemption Letter

Prepared by,

David Schulz, BURPI, MCIP, RPP  
Senior Planner  
(905) 835-2900 x202  
[david.schulz@portcolborne.ca](mailto:david.schulz@portcolborne.ca)

Respectfully submitted,

Denise Landry, MCIP, RPP  
Chief Planner  
(905) 835-2900 x203  
[denise.landry@portcolborne.ca](mailto:denise.landry@portcolborne.ca)

## **Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.