



## MEMORANDUM

**FROM:** Jim Baird, Commissioner of Development Services

**TO:** Mayor and Members of Council

**PREPARED BY:** Richard Kendall, Manager of Development, Central District

**REVIEWED BY:** Biju Karumanchery, Senior Development Manager

**DATE:** November 26, 2013

**RE:** Hold Removal By-law and Deferral of Cash-in-lieu of Parkland  
Markham Free Methodist Church  
22 Esna Park Drive  
Planning File: ZA 13 115455

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### Recommendation

1. That the attached by-law to lift the Holding (H) provisions be enacted;
2. That In the event that Council approves the deferral of the cash in lieu, security, if required, would be to the satisfaction of the Chief Administrative Officer, and appropriate provisions will be inserted into the site plan agreement to be registered on title; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### Background

In February, 2010, an application to sever the subject lands (22 Esna Park Drive) from the original holdings at 20 Esna Park Drive was approved by the Committee of Adjustment. The original 4.1 ha holdings contained two, separate industrial buildings, with the one on 20 Esna Park Drive dating around 1977, and the one on 22 Esna Park Drive being built approximately 5 years later. The consent created two lots, each with one building. The subject lands also contained the parking required to support the industrial operations within the building and a significant amount of sodded area towards the rear and side of the property.

At the time of the consent, the applicant (Tyco Electronics) indicated that the severed lands and existing building would continue to be used for "Industrial" purposes, consistent with the applicable zoning provisions. As no change in use was identified, no condition for cash-in-lieu of parkland contribution was required at that time. The decision on the consent application became final on January 21, 2011. The severed (subject) parcel was subsequently sold to Markham Free Methodist Church.

In May, 2011, the Markham Free Methodist Church applied for zoning amendments to permit a place of worship within the existing industrial building. The application was subject to a public meeting in September, 2011, following which, Development Services Committee recommended approval of the zoning amendments. The implementing by-law (By-law 2012-90) was adopted by Council in April, 2012, to allow for the conversion of the existing industrial building to a place of worship and accessory uses, subject to certain Holding (H) provisions, including Site Plan Approval. The by-law was appealed to the Ontario Municipal Board (OMB) by industrial property owners in the vicinity of the site. As part of the Minutes of Settlement at the OMB, additional Hold (H) provisions were included in the amending by-law which required the Owner to guarantee the incorporation and installation of noise control features into the building renovations that would limit the noise penetration from off-site industrial activity.

Originally, the applicant was seeking to develop this site in phases, with the first phase being limited to worship space and the balance of the building being used for storage and incidental uses. During the course of the site plan process, additional funds were made available to the church and they expanded their renovations to cover the entire building area, including the space originally intended for storage. The expanded scope of work includes a variety of community outreach facilities and space, comprising a gymnasium, meeting and office space and a multi-purpose room. As a result of this additional work, much of the remainder of the site which was sodded must now be developed with parking and storm water management facilities to accommodate the City's Parking By-law requirements associated with the increased programming and use of the building.

#### **Deferral of Cash-in-Lieu of Parkland**

The change of use of the building associated with the zoning by-law amendment represents an appropriate opportunity to secure any parkland requirements. In conjunction with the preparation of the site plan agreement, a review of the parkland dedication requirements for this site was conducted, dating back to the construction of the original buildings. This review determined that a parkland contribution had not been made previously for this property. As a result a 5% cash-in-lieu of parkland dedication payment equaling \$205,000.00 is being triggered by the current proposal. The requirement for parkland dedication is consistent with the requirements of the Planning Act and the City's parkland dedication by-law.

The applicant is requesting relief from the requirement for the payment of cash-in-lieu of parkland dedication, on the basis that they had not anticipated this cost at the site plan stage on a parcel that had recently been severed (normally any parkland owing would be collected at the time of severance, but in this instance no change in use was identified). Planning staff in consultation with the CAO and Legal, would support a five (5) year deferral. Should Council approve this request the following terms are recommended:

- 5 year deferral of cash-in-lieu of parkland dedication payment, without interest charges
- Payment due in full on any sale of the property
- Deferral is not transferable without the prior consent of the City.

The Owner has entered into a site plan control agreement and has provided the necessary guarantees for the installation of the required noise control features. This includes certification from the Owner's acoustical engineer that the interior noise levels within the building will be maintained at a certain level or lower, in accordance with the agreed to Minutes of Settlement. The site plan control agreement also includes the cash-in-lieu provisions discussed above.

**Conclusion**

The Hold (H) provisions within the amending by-law (By-law 2012-90) have been satisfied, and therefore Staff recommends that the Hold (H) provision be lifted.

In the event that Council approves the deferral of the cash in lieu, security, if required, would be to the satisfaction of the Chief Administrative Office, and appropriate provisions will be inserted into the site plan agreement to be registered on title.