

# Memorandum to the City of Markham Committee of Adjustment

September 02, 2025

**File:** A/026/25  
**Address:** 50 Esna Park Drive, Markham  
**Agent:** Gagnon Walker Domes Ltd. (Richard Domes)  
**Hearing Date:** Wednesday, September 10, 2025

The following comments are provided on behalf of the Central Team:

The Applicant is requesting relief from the following requirements of the “Employment – General Employment (EMP-GE)” zone in By-law 2024-19, as amended, to permit:

- a) **By-law 2024-19, Section 9.4.1.1:** a financial institution, banquet hall, trade and convention centre, childcare centre, recreational fitness centre, business office, restaurant, and minor local entertainment centre, whereas the by-law does not permit these specific uses;

as it relates to site specific uses otherwise not permitted on the subject lands.

## BACKGROUND

### Property Description

The 40,053.81 m<sup>2</sup> (431,135.62 ft<sup>2</sup>) Subject Lands is located on the north side of Esna Park Drive, at the north west corner of Esna Park Drive and Rodick Road (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established industrial area.

There is an existing 3,139.25 m<sup>2</sup> (33,790.60 ft<sup>2</sup>) one-storey commercial building on the property, with mature vegetation existing throughout the Subject Lands.

### Proposal

The Applicant is requesting relief from the By-law to permit a range of uses that were historically permitted on the Subject Lands, prior to the passing of the Comprehensive Zoning By-law (“CZBL”) as further detailed below. These uses include a financial institution, banquet hall, trade and convention centre, childcare centre, recreational fitness centre, business office, restaurant, and minor local entertainment centre, whereas the By-law does not currently permit these uses.

### Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on July 17, 2024)

The Official Plan designates a majority of the southern portion of the Subject Lands as “General Employment”, which provides for manufacturing, processing, and warehousing uses with accessory retail, service and office uses.

The Official Plan also designates the northern portion of the Subject Lands as “Greenway”, which intends to protect natural heritage and hydrogeologic features and certain protected agricultural lands while supporting agricultural activities, protection of wildlife habitat, passive recreation uses, and natural heritage enhancement opportunities.

Section 9.17.3 of the Official Plan contains site-specific use provisions that shall apply to the “General Employment” lands at 50 Esna Park. These site-specific use provisions permit the following additional uses on the Subject Lands:

- Financial institution
- Banquet hall
- Trade and convention centre
- Day care centre
- Commercial fitness centre
- Office
- Restaurant
- Place of entertainment
- Hotel that does not include dwelling units, where integrated with a banquet hall or trade and convention centre

#### Former Zoning By-law 108-81

Former By-law 108-81 no longer applies to the Subject Lands. However, Staff note that prior to the CZBL 2024-19, as amended, coming into full force and effect on January 31, 2024, the Subject Lands were subject to Zoning By-law 108-81, as amended by site-specific By-law 144-96. Site-specific By-law 144-96 zoned the Subject Lands as “Business Corridor (B.C.)”, which only permitted banks and financial institutions, banquet centre, conference and convention centre, day nurseries and day care centres, health centres, recreation establishments, offices, Places of entertainment, research and training centres, restaurants, fast food restaurants, and take-out restaurants. The uses permitted through site-specific By-law 144-96 were in alignment with Markham’s 2014 Official Plan.

#### CZBL 2024-19, as amended

The Subject Lands are currently zoned “Employment – General Employment (EMP-GE)” and “Greenway One (GWY1)” which does not permit financial institution, banquet hall, trade and convention centre, childcare centre, recreational fitness centre, business office, restaurant, and minor local entertainment centre uses. The Applicant is requesting to add the uses to the portion of the Subject Lands zoned “Employment – General Employment (EMP-GE)”.

The CZBL 2024-19, as amended does not yet contemplate the Area and Site-Specific Policies provided in Markham’s 2014 Official Plan, which will be rectified through housekeeping amendments at a future date.

#### **Zoning Preliminary Review (ZPR) Not Undertaken**

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the Applicant's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

### **COMMENTS**

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

### **Additional Uses**

The Applicant is requesting to allow a financial institution, banquet hall, trade and convention centre, childcare centre, recreational fitness centre, business office, restaurant, and minor local entertainment centre as uses, whereas the By-law does not permit these specific uses. The Applicant had originally included a request for medical office, but later withdrew that request as the use was not permitted under the Official Plan.

Staff have reviewed the Planning Rationale submitted by the Applicant and are in agreement with the assessment that the proposed uses meet the four tests of the Planning Act. Staff note that the requested variance meets the intent of the Official Plan, and that the Comprehensive Zoning By-law will be amended to reflect the Area and Site-Specific Policies contained within the Official Plan. Therefore, Staff are of the opinion that the additional uses requested follow the intent of the Official Plan, are minor in nature, and will not negatively affect the character of the established industrial area.

### **CN Rail Requirements**

CN Rail provided comments on this application on July 24, 2025 (refer to Appendix B), requiring a list of mitigation measures be implemented to attenuate the impact generated by the railway located along the rear of the property. Staff recommend a condition be added requiring the Applicant to satisfy CN Rail's requirements prior to the issuance of a building permit.

Staff note that any development proposal would require a Site Plan Control application at a minimum and CN Rail's conditions would be addressed through the review of a future site plan application.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of September 4, 2025. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

## **CONCLUSION**

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the Applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



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Brendan Chiu, Planner I, Central District

REVIEWED BY:



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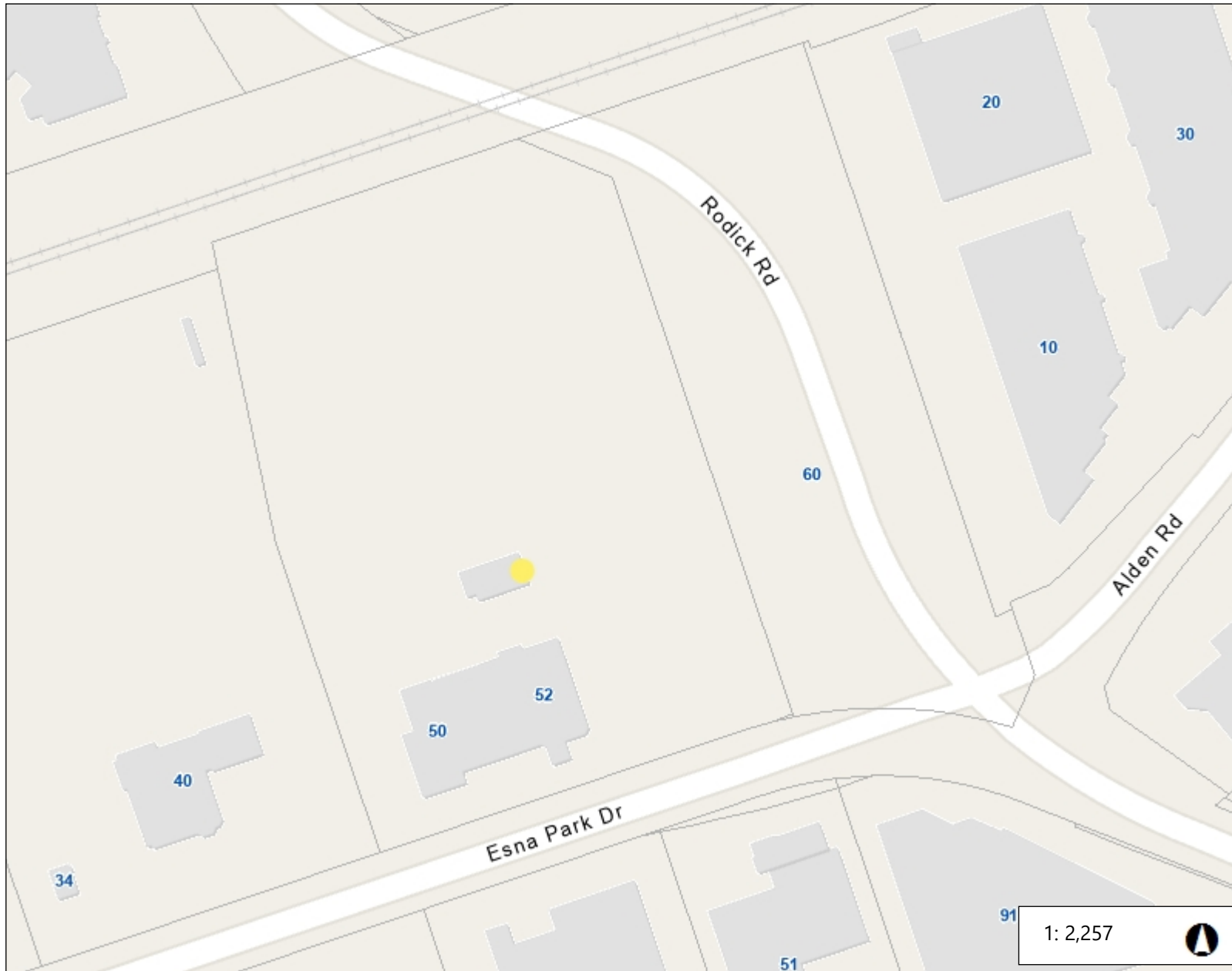
Melissa Leung, Senior Planner, RPP MCIP, Central District

## **APPENDICES**

Appendix "A" – Aerial Photo

Appendix "B" – CN Rail Memo July 24, 2025

Appendix "C" – Conditions of Approval for A/026/25



## Legend

- Subject Lands
- 50 Esna Park Drive

1: 2,257



114.7 0 57.33 114.7 Meters

NAD\_1983\_UTM\_Zone\_17N  
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DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email [cgis@markham.ca](mailto:cgis@markham.ca) and you will be directed to the appropriate department.

## Notes

**Yap, Vivian**

## Appendix B

**From:** Proximity <proximity@cn.ca>  
**Sent:** Thursday, July 24, 2025 10:43 AM  
**To:** Yap, Vivian  
**Cc:** Leung, Melissa; Chiu, Brendan  
**Subject:** 2025-07-24\_CN Comments\_A/026/25 - 50 Esna Park Drive - Minor Variance\_Markham  
**Attachments:** Circulation Memo - A.026.25 - 50 Esna Park Drive.pdf; Plans - A.026.25 - 50 Esna Park Drive.pdf

File:   
Date: **9/5/2025**  
MM/DD/YYYY

**CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.**

Hello Vivian,

Thank you for circulating CN on the application for a variance to Section 9.4.1.1 of By-law 2024-19, to permit additional commercial activities among which many are sensitive uses (banquet hall, trade and convention centre, childcare centre) that may be impacted negatively by railway operations. It is noted that the subject site is adjacent to CN's Main Line. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. CN, in collaboration with Railway Association of Canada and the Federation of Canadian Municipalities, developed the Guidelines for New Development in Proximity to Railway Operations in order to promote proper planning around railway operations. The Guidelines can be found at <https://www.proximityissues.ca>.

CN requests for the implementation of the following criteria as conditions of an eventual application approval:

1. All proposed principal buildings shall be setback 30 meters from a Principal Main line with an appropriate safety berm abutting the railway right of way;
2. The required safety berm shall be adjoining and parallel to a Principal Main line right-of-way with returns at the ends, 2.5 meters above grade at the property line, with side slopes not steeper than 2.5 to 1;
3. A chain link fence of minimum 1.83 meter height shall be installed and maintained along the mutual property line shared with the railway right of way;
4. The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, CN may consider other measures recommended by an approved Noise Consultant.
5. Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 meters of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz,  $\pm 3$  dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.
6. The storm water management facility must be designed to control storm water runoff to pre-development conditions including the duration and volume of the flow and accordingly have no impacts on CN right of way, including ditches, culverts and tracks. Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from CNR and be substantiated by a drainage report to the satisfaction of the Railway.

7. The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favor of CN.

CN anticipates the opportunity to review a detailed site plan, a N&V study and a storm water management report taking into consideration the FCM/RAC development guidelines.

In order to ensure the safety of railway operations, CN's operations and infrastructure are not to be impaired or affected by any construction works or any other works. Additionally, any work performed on CN's property must be arranged through a work permit.

A work permit ensures that the proponents of the work, its authorized employees, servants, agents or contractors comply with CN's instructions and will take any safety precautions that CN may reasonably deem necessary in order to ensure that railway operations remain safe.

Thank you



**CN Proximity**

[proximity@cn.ca](mailto:proximity@cn.ca)

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**From:** Yap, Vivian <VYap@markham.ca>

**Sent:** Wednesday, July 23, 2025 3:04 PM

**To:** Chiu, Brendan <BChiu@markham.ca>; Leung, Melissa <MelissaLeung@markham.ca>

**Subject:** A/026/25 - 50 Esna Park Drive - Minor Variance

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Good afternoon,

An ePlan Minor Variance application has been received for [50 Esna Park Drive](#) (A/026/25). Please see attached Circulation Memo and associated plans.

Regards,

**Vivian Yap**

Development Technician

Planning & Urban Design | Development Services Commission

City of Markham | 101 Town Centre Boulevard, Markham, ON, L3R 9W3

**T:** 905.477.7000 ext. 2063 | **E:** [VYap@markham.ca](mailto:VYap@markham.ca)



**APPENDIX “C”**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/026/25**

1. The variances apply only to the lands zoned as “Employment – General Employment (EMP-GE)”.

CONDITIONS PREPARED BY:



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Brendan Chiu, Planner I, Central District