

## Staff Report

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**Report To:** City Council  
**Report From:** Pamela Coulter, Director of Community Services  
**Meeting Date:** May 26, 2025  
**Report Code:** CS-25-058  
**Subject:** Cash in Lieu of Parking – 901 2nd Ave East, TD Bank

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### Recommendations:

THAT in consideration of Staff Report CS-25-058 respecting a request for a Cash in Lieu of Parking Agreement by Francesco Fiorani for the TD Bank at 901 2<sup>nd</sup> Avenue East, City Council:

1. Approves the request for an exemption for six (6) parking spaces as required by the City's Zoning By-law (2010-078, as amended) and Minor Variance A10/24) by providing a one-time cash-in-lieu payment of \$36,000 (\$6,000 per parking as space as per the City's Fees and Charges By-law No. 2023-080) for the required parking spaces through an agreement authorized by Section 40 of the *Planning Act* and the City's Official Plan policies; and
2. Directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute a Cash-in-Lieu of Parking Agreement with the owners of 901 2<sup>nd</sup> Avenue East.

### Highlights:

- The TD Bank is reconfiguring the east side of the building to add an accessible ramp and an exterior ATM. These changes required a reconfiguration of the existing parking area;
- The Committee of Adjustment decision with respect to variances on certain setbacks relating to the parking spaces included a condition requiring cash-in-lieu of parking for six spaces;

- The Planning Act provides the legislative authority for the City to enter into agreements with respect to cash-in-lieu of parking.
- The redevelopment will be subject to an application for minor site plan approval. The new site plan will result in accessibility improvements and be registered on the property.

### **Strategic Plan Alignment:**

[Strategic Plan](#) Priority: A City that Grows.

### **Climate and Environmental Implications:**

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by considering climate adaptation in the development of the City's strategies, plans and policies.

### **Strategic Plan Alignment:**

This report supports the delivery of Core Service.

### **Climate and Environmental Implications:**

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by strengthening the resiliency of City infrastructure or services.

### **Previous Report/Authority:**

[Planning Act, R.S.O 1990, c, P. 13](#) – Section 40

[City of Owen Sound Official Plan \(2021\)](#)

[City of Owen Sound Zoning By-law 2010-078](#)

[City of Owen Sound Fees and Charges By-law 2023-080](#)

[Minor Variance A10-2024](#)

Decision with Conditions regarding Variance A10-2024 (Attachment 1)

### **Background & Proposal:**

The subject property is located at 901 2<sup>nd</sup> Avenue East, is a corner lot with frontage on both 2<sup>nd</sup> Ave and 9<sup>th</sup> Street East (Attachment 2). The site

contains one existing 2-storey building with a small outdoor parking lot with vehicular access to the rear of the property. The existing building is currently operating as a TD Bank.

The subject lands are designated 'River District Commercial' in the City's Official Plan (OP) and are zoned 'C1' with special provision 14.84 in the City's Zoning By-law (2010-078, as amended).

The site was developed in 1995 under Site Plan Control. The applicant is proposing to add an exterior ATM and accessibility ramp to the existing building on the eastern façade. The proposed changes result in changes to the parking area that would reduce the parking from the 1995 site plan. In December of 2024, the Committee of Adjustment approved a minor variance to provide relief that recognized certain conditions relating to the existing parking lot. The reconfigured site plan proposes a total of 5 parking spaces, including one accessible space (see Attachment 3).

As part of the decision issued by the Committee of Adjustment, a condition was imposed that required cash-in-lieu of parking to compensate for 6 parking spaces that are deficient based on current zoning requirements.

A payment of \$36,000 (\$6,000 per parking as space as per the City's Fees and Charges By-law 2023-080) for the required parking spaces would be provided. An agreement would also be executed under the authority of Section 40 of the *Planning Act* and the City's Official Plan policies and registered on title.

## **Analysis:**

The subject proposal is required to meet all development standards and policies applicable to projects within the City of Owen Sound. All applicable policies, standards, and review comments are reviewed below in the context of the subject application.

### **Planning Act**

Section 40 of the *Planning Act*, R.S.O 1990, c. P. 13 ("the Act") provides the basis for cash-in-lieu of parking agreements as follows:

*Agreement exempting owner from requirement to provide parking*

**40** (1) *Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or*

*occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. R.S.O. 1990, c. P.13, s. 40 (1).*

#### *Payment of money*

*(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. R.S.O. 1990, c. P.13, s. 40 (2).*

#### *Special account*

*(3) All money received by a municipality under an agreement entered into under this section shall be paid into a special account and,*

- (a) the money in that account shall be applied for the same purposes as a reserve fund established under the Municipal Act, 2001 or the City of Toronto Act, 2006, as the case may be;*
- (b) the money in that account may be invested in securities in which the municipality is permitted to invest under the Municipal Act, 2001 or the City of Toronto Act, 2006, as the case may be;*
- (c) earnings derived from the investment of the money in the special account shall be paid into that account; and*
- (d) the auditor of the municipality, in the auditor's annual report, shall report on the activities and position of the account. 2002, c. 17, Sched. B, s. 13 (1); 2006, c. 32, Sched. C, s. 47 (6).*

#### *Registration of agreement*

*(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies and, when so registered, any money payable to the municipality under the agreement that has become due for payment shall have priority lien status as described in section 1 of the Municipal Act, 2001 or section 3 of the City of Toronto Act, 2006, as the case may be. 2002, c. 17, Sched. B, s. 13 (2); 2006, c. 32, Sched. C, s. 47 (7).*

#### *Certificate*

*(5) When all money payable to the municipality under an agreement registered under subsection (4) has been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registrable in the proper land registry*

*office, certifying that the money has been paid or that the agreement has been terminated. R.S.O. 1990, c. P.13, s. 40 (5).*

The executed agreement will be registered on the title of the subject property.

### **City of Owen Sound Official Plan**

The subject property is designated 'River District Commercial' in the Owen Sound Official Plan (OP).

The River District Commercial designation permits a full range of commercial, institutional, recreational, and residential uses, including the proposed commercial and residential use.

*Section 5.1.4.5 of the OP states that all new development or redevelopment in the River District Commercial area shall be encouraged to provide sufficient parking on site to accommodate the proposed use. If such parking cannot be provided, the City may collect cash-in-lieu pursuant to Section 40 of the Planning Act to be used expressly for the provision of additional parking spaces in an appropriately defined area. In addition, the City may choose to require parking be provided at a lower rate within the River District Commercial area.*

Section 9.7.5 of the OP details cash-in-lieu of parking:

#### *9.7.5 Payment-in-lieu of Parking*

*9.7.5.1 Where a zoning by-law requires that on-site parking be provided as a condition to the development or establishment of a use, the City, at its sole discretion may enter into an agreement with the owner of such lands exempting the owner from the provision of on-site parking subject to the payment to the municipality of a sum of money which shall be used to acquire lands and provide and maintain public parking facilities.*

*9.7.5.2 Payment-in-lieu of parking monies may be paid in one lump sum or may be paid in yearly instalments as provided for in the agreement.*

*9.7.5.3 Payment-in-lieu of parking should be employed only in the River District Commercial area where, in the opinion of the City, there is sufficient concentration of uses and/or public demand to warrant the establishment of public parking. Subject to the foregoing, the City may use this alternative where any of the following conditions exist:*

*a. The subject property is too small to accommodate the amount of parking required.*

*b. Provision of on-site parking would result in poor site planning that would detract from the subject and area properties (the development would be out-of-character with the form of development evident in the vicinity of the subject property).*

*c. Attempts are being made to consolidate lands for public use, where the owner agrees to make available to the municipality, surplus lands for such consolidation.*

*d. The owner will undertake such additional works as the City may agree to that would ordinarily be beyond the City's normal and standard requirements.*

The proposal conforms to the policies of the Official Plan with respect to the application of cash-in-lieu of parking provisions.

### **City of Owen Sound Zoning By-law (2010-078, as amended)**

The subject property is zoned 'Core Commercial' (C1) in the City's Zoning By-law (2010-078, as amended).

As per the City's Zoning By-law 2010-078, as amended, based on the use and gross floor area of the building today, the site requires 11 parking spaces, five of which are provided on-site and six proposed through cash-in-lieu. In the River District, with the number of parking spaces provided on-street (approximately 370) and in municipal lots (approximately 450), this is appropriate.

The new parking configuration will add a Type A Barrier Free stall which will meet the requirements of the Accessibility for Ontarians with Disabilities Act (AODA).

### **Financial Implications:**

A lump sum cash-in-lieu payment of \$36,000 (\$6,000 per parking space as per the City's Fees and Charges By-law 2023-080) shall be placed into a special account to be used to acquire lands and provide and maintain public parking facilities in the City's River District.

## **Communication Strategy:**

Public notice was given through the Minor Variance A10/2024.

## **Consultation:**

Consultation was completed through the Variance.

## **Attachments:**

1. Decision with Conditions regarding Variance A10-2024
2. Location of the Subject Property
3. Site Plan

## **Recommended by:**

Pamela Coulter, Director of Community Services

## **Submission approved by:**

Tim Simmonds, City Manager

For more information on this report, please contact Pamela Coulter, Director of Community Services at [pcoulter@owensound.ca](mailto:pcoulter@owensound.ca) or 519-376-4440 ext. 1252.