

Authority: Scarborough Community Council Item
SC33.10, as adopted by City of Toronto Council on July 19
and 20, 2022

CITY OF TORONTO

Bill 956

BY-LAW -2022

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2021 as 253 Markham Road and 12, 20, 30 Dunelm Street.

Whereas Council of the City of Toronto has the authority to pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; and

Whereas pursuant to Section 39 of the Planning Act, as amended, the council of a municipality may, in a by-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the Planning Act provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.

2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines from a zone label of RD (f13.0; a464) (x407) to a zone label of RA (x165) and O, as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.7.10 Exception Number 165 so that it reads:

(165) Exception RA 165

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions.

Site Specific Provisions:

- (A) On 253 Markham Road and 12, 20 and 30 Dunelm Street, if the requirements of By-law [#-2022- Clerks to supply by-law ##] are complied with, **apartment buildings** may be constructed, used or enlarged in compliance with Sections (B) to (CC) below:
- (B) For the purpose of this exception, the **lot** comprises the lands outlined by heavy lines with the zone label RA (165), as shown on Diagram 2, attached to By-law #####-2022 [NTD: clerks to insert number];
- (C) Despite Regulations 15.10.20.10(1) and 15.10.20.20(1), public parking is permitted only for the purposes of "car-share" and "car-share parking spaces", as defined in (O) below;
- (D) Despite Regulation 15.10.20.40(1)(A), a **dwelling unit** is permitted in the following residential building types:
 - (i) **Apartment Building;**
- (E) A maximum of 783 **dwelling units** are permitted on the **lot**;
- (F) For the purposes of this exception the Canadian Geodetic Datum elevation of 157.63 must be used for **established grade**;
- (G) Despite regulation 15.5.40.10(1), the height of a **building** or **structure** is the vertical distance between the Canadian Geodetic Datum elevation of 157.63 to the highest point of a **building** or **structure**;
- (H) Despite regulation 15.10.40.10(1), the permitted maximum height of **buildings** or **structures** on the **lot** is the numerical value in metres shown following the symbol "HT" on Diagram 3 of by-law [Clerks to supply by-law ##];

- (I) Despite (H) above and regulations 15.5.40.10(2) to (5), the following elements of a **building** may exceed the permitted maximum height as shown on Diagram 3 of by-law [Clerks to supply by-law ##]:
- (i) **Structures** used for safety, noise or wind mitigation purposes, railings, lightning rods, lighting fixtures, cornices, sills, eaves, railings, rail safety crash walls, privacy screens, stairs, window washing equipment, ornamental or architectural features, landscape features, patios, decks, planters, gas and hydro meters, transformers and associated enclosures, garbage enclosures, community mail boxes, balconies and air conditioners;
 - (ii) Roof assembly, including water proofing, insulation, drainage layers and surface finish, may exceed the permitted maximum **building** height by a maximum of 0.7 metres;
 - (iii) Parapets, elements of a **green roof** and elevator overruns may exceed the permitted maximum **building** height by a maximum of 1.5 metres;
 - (iv) **Structures** for outdoor **amenity space** or open air recreation, including terraces, may exceed the permitted maximum **building** height by a maximum of 3.0 metres;
 - (v) Enclosed stairs may exceed the maximum **building** height by a maximum of 4.0 metres;
 - (vi) Chimneys, vents stacks and flues and associated enclosures may exceed the maximum **building** height by a maximum of 5.0 metres;
 - (vii) Ramps to underground parking areas and associated **structures**, guards, guardrails, bollards and wheelchair ramps, subject to a maximum vertical projection of 1.5 metres above the finished ground surface;
 - (viii) Canopies and awnings, including structural supports, subject to a maximum vertical projection of 6.0 metres above the finished ground surface;
- (J) In addition to the elements in (I) above, the following equipment and **structures** are also permitted to exceed the permitted maximum heights for Building E and Building F as shown on Diagram 3 of by-law [Clerks to supply by-law ##] by 3.0 metres:
- (i) Equipment used for the functional operation of the **building**, such as electrical, utility, mechanical and ventilation equipment;
 - (ii) Roof access hatches and elevator shafts; and
 - (iii) **Structures** that enclose, screen or cover the elements listed in (i) and (ii) above;

- (K) Despite regulation 15.10.40.40(1), the permitted maximum **gross floor area** on the **lot** is 55,000 square metres;
- (L) Despite regulation 15.10.30.40(1)(A), **lot coverage** requirements do not apply;
- (M) Despite Clauses 15.10.40.70 and 15.10.40.80, the required minimum **building setbacks** and the required minimum separation distances between **main walls** of **buildings** or **structures** above finished ground are shown on Diagram 3 of by-law [Clerks to supply by-law ##];
- (N) Despite (M) above and regulations 5.10.40.70(1) and 15.5.40.50(2), 15.5.60.30(1), clauses 15.5.40.60 and 15.5.60.20 the following elements of a **building** or **structure** may encroach into a required minimum **building setback** and a required minimum **main wall** separation distance shown on Diagram 3 of by-law [Clerks to supply by-law ##] as follows:
- (i) lighting fixtures, railings, rail safety crash walls, privacy screens, stairs, enclosed stairs, ornamental or architectural features, landscape features, patios, decks, terraces, planters, bollards, window washing equipment, vents, garbage enclosures, community mail boxes, air conditioners, chimneys, flues, **structures** for safety, noise or wind mitigation purposes, parapets, elements of a **green roof** and structures for outdoor **amenity space** or open air recreation, railings lightning rods; ramps to underground parking areas and associated **structures**, guards, guardrails, wheelchair ramps, bicycle racks and related weather protection, gas and hydro meters, transformers and associated enclosures;
 - (ii) cornices, sills, eaves, to a maximum of 0.5 metres; and
 - (iii) Canopies and awnings, including structural supports, to a maximum of 3.0 metres;
 - (iv) Balconies to a maximum depth of 1.8 metres
- (O) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided and maintained in accordance with the following rates:
- (i) A maximum of 0.96 **parking spaces** per **dwelling unit** for residential occupants;
 - (ii) A minimum of 2 **parking spaces** plus 0.05 **parking spaces** per **dwelling unit**, to a maximum of 0.15 **parking spaces** per **dwelling unit**, for residential visitors;
 - (iii) a reduction of 4 resident occupant **parking spaces** will be permitted for each "car-share parking space" provided and that the maximum reduction permitted be capped by the application of the following formula:

- (a) 4 multiplied by (total number of **dwelling units** divided by 60), rounded down to the nearest whole number;
 - (iv) for the purpose of this exception, "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
 - (v) for the purpose of this exception, "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (P) Regulation 15.5.80.30(1) with respect to surface **parking space** separation from an **apartment building** does not apply;
- (Q) Despite Regulations 200.5.1.10(2) and 200.10.1(3), a maximum of 25 **parking spaces**, may have the following minimum dimensions and may be obstructed as described in Regulation 200.5.1.10(2)(D) without being required to provide additional width for the obstructed sides of the **parking space**:
- (i) a minimum width of 2.6 metres; and
 - (ii) a minimum length of 5.0 metres;
- (R) Despite 200.5.1.10(2)(C)(ii), the minimum width of a **parking space** that is adjacent and parallel to a **drive aisle** from which **vehicle** access is provided is 2.5 metres;
- (S) Regulation 200.5.1.10(3) regarding maximum dimensions of a **parking space** does not apply;
- (T) Despite regulation 200.5.1.10(12)(C), a **vehicle** entrance or exit to an **apartment building** is permitted to be closer than 6 metres from the **lot line** abutting the **street**;
- (U) Despite Article 200.15.1, accessible **parking spaces** must be provided in accordance with the following:
- (i) An accessible **parking space** must have the following minimum dimensions:
 - (a) Length of 5.6 metres;
 - (b) Width of 3.4 metres; and
 - (c) Vertical clearance of 2.1 metres

- (ii) The entire length of an accessible **parking space** must be adjacent to a 1.5 metre wide accessible barrier free aisle or path; and
- (iii) Accessible **parking spaces** may be a maximum of 30 metres from a passenger elevator that provides access to the first **storey** of the **building**;
- (V) Regulations 15.5.100.1(1) and (2) regarding **driveway** width and **driveway** access to **apartment buildings** do not apply to the **lot**;
- (W) Despite Clause 220.5.10.1, a minimum of one (1) Type G **loading space** must be provided in Building A and one (1) Type G **loading space** must be provided in Building C as shown on Diagram 3 of By-law #####-2022 [Clerks to supply by-law ##] and such **loading spaces** may be provided for the shared use of any **buildings** on the **lot**;
- (X) Despite regulation 15.10.40.50(1), **amenity space** is only required for **dwelling units** in Building A, Building B, Building C and Building D as shown on Diagram 3 of By-law #####-2022 [Clerks to supply by-law ##] and must be provided in accordance with the following:
 - (i) indoor **amenity space** must be provided for Building A at a minimum rate of 1.6 square metres for each **dwelling unit**;
 - (ii) indoor **amenity space** must be provided for Building B at a minimum rate of 1.9 square metres for each **dwelling unit**;
 - (iii) indoor **amenity space** must be provided for Building C at a minimum rate of 1.4 square metres for each **dwelling unit**;
 - (iv) indoor **amenity space** must be provided for Building D at a minimum rate of 1.8 square metres for each **dwelling unit**;
 - (v) outdoor **amenity space** must be provided for Building A, Building B, Building C and Building D at a minimum rate of 2.3 square metres for each **dwelling unit**; and
 - (vi) No more than 25 percent of the required outdoor **amenity space** may be a **green roof**;
- (Y) **Amenity space** is not required for **dwelling units** in Building E and Building F, as shown on Diagram 3 of By-law #####-2022 [Clerk to insert number];
- (Z) Despite Regulation 230.5.10.1(1)(5), **bicycle parking spaces** must be provided in accordance with the following minimum rates:
 - (i) 0.68 "long-term" **bicycle parking spaces** for each **dwelling unit**; and
 - (ii) 0.07 "short-term **bicycle parking spaces** for each **dwelling unit**;

- (AA) Despite Regulation 230.5.1.10(4), a **stacked bicycle parking space** must have the following minimum dimensions:
- (i) length of 1.8 metres;
 - (ii) width of 0.45 metres; and
 - (iii) vertical clearance from the ground of 1.2 metres;
- (BB) Despite Regulation 230.5.1.10(9)(B), a **bicycle parking space** for a **dwelling unit** in an **apartment building** may be located:
- (i) on the first **storey** of the **building**;
 - (ii) on the second **storey** of the **building**; and
 - (iii) on levels of the **building** below-ground commencing with the first level below-ground and moving down, in one level increments when at least 50 percent of the area of that level is occupied by **bicycle parking spaces**, until all required **bicycle parking spaces** have been provided;
- (CC) Despite Clause 15.5.50.10, landscaping requirements do not apply to the **lot**;

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any severance, partition or division of the lands zoned RA (x165) as shown on Diagram 2 attached to By-law [Clerks to supply by-law ###], the provisions of this By-law and By-law 569-2013, as amended, shall apply to the whole of the lands as one **lot**, as if no severance, partition or division occurred.
6. None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of, a temporary sales office **building** or temporary sales **structure** exclusively for the sale of a **dwelling unit** on the **lot** for a period of 3 **years** from the date of issuance of the first above grade building permit.
7. Section 37 Requirements
 - (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
 - (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters and to enter into an agreement prior to the issuance of a

building permit, the issuance of such permit shall be dependent on satisfaction of the same;

- (C) The owner shall not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied;
- (D) The owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37(3) and (4) of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits above.

Enacted and passed on July , 2022.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

SCHEDULE A
Schedule 37 Provisions

1. Prior to the issuance of any building permit, the owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits below.
2. The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands at 253 Markham Road 12 20 30 Dunelm Street shown as on Diagram 2 of this By-law, and secured in an agreement or agreements pursuant to Section 37(3) of the Planning Act, as it read on the day before section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force, whereby the owner agrees as follows:
 - (a) Prior to the issuance of the first above-grade building permit for 'Building A', the Owner shall make a cash contribution to the City in the amount of \$850,000 to be used for 'above base' park improvements to the proposed public park located on Dunelm Street to the satisfaction of the General Manager of Parks, Forestry and Recreation (PFR); and,
 - (b) The Owner shall make a cash contribution totalling \$850,000 to be paid in equal payments to the City in the amount of \$283,333.00 prior to the first above-grade building permit for each of Building B, Building C and Building D to be used for the expansion of licensed, non-profit child care spaces in the vicinity of the development.
3. The cash contribution in Recommendation 2(a) and 2(b) above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area as reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor.
4. The other matters secured in the Section 37 Agreement as a legal convenience to support the development are as follows:
 - a. The City and Owner shall make reasonable efforts to amend the Home Ownership Assistance Program Delivery Agreement –, 253 Markham Road and 12, 20 and 30 Dunelm Street, Toronto, executed on December 19, 2018 with Habitat for Humanity (Greater Toronto Area) and Home Ownership Alternatives Non-Profit Corporation (Greater Toronto Area) to address appropriate implementation matters regarding the affordable housing units to be provided as part of the Development;
 - b. Enter into a financially secured Development Agreement for the relocation of a 750mm transmission watermain, according to the Site Servicing Review accepted by the Chief Engineer & Executive Director of Engineering and Construction Services prior to the issuance of any building permit;

- c. The Owner shall satisfy the requirements of Metrolinx and the Canadian National Railway, regarding noise and vibration attenuation requirements and operational easement requirements, and shall insert any warning clauses in purchase and sale/tenancy agreements as required in connection with noise and vibration;
- d. The Owner shall provide the Toronto Transit Commission (TTC) with \$35,000 for the installation of signal priority at an intersection in the vicinity of the site to the satisfaction of the TTC, Project Development and Planning prior to the issuance of the first above-grade building permit for Building A;
- e. The Owner shall construct and maintain the development of the site in accordance with Tier 1, Toronto Green Standard version 3, and the Owner shall be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate.;
- f. The Owner of Building A, Building B, Building C, Building D, Building E and Building F shall provide and maintain a minimum number of two- and three-bedroom units in accordance with the following, subject to minor variations satisfactory to the Chief Planner, and Executive Director, City Planning Division:
 - (i) The subject owner of each of Building A, Building B, Building C, Building D, and Building F shall provide and maintain a minimum of 25 percent of the total number of dwelling units in the subject Building as dwelling units having two bedrooms;
 - (ii) Upon completion of the development, a minimum of 10 percent of all of the dwelling units shall include three or more bedrooms, which shall be distributed in each Building as follows:
 - (a) The subject owner of Building A shall provide and maintain a minimum of 4 percent of the total number of dwelling units in Building A as three-bedroom units;
 - (b) The subject owner of Building B shall provide a minimum of 3 percent of the total number of dwelling units in Building B as three-bedroom units;
 - (c) The subject owner of Building C shall provide and maintain a minimum of 4 percent of the total number of dwelling units in Building C as three-bedroom units;
 - (d) The subject owner of Building D shall provide and maintain a minimum of 11 percent of the total number of dwelling units in Building C as three-bedroom units;

- (e) The subject owner of Building E shall provide and maintain 100 percent of the total number of dwelling units in Building E as dwelling units as three bedrooms; and,
 - (f) The subject owner of Building F shall provide and maintain a minimum of 64 percent of the total number of dwelling units in Building F as three-bedroom units.
- g. The Owner shall convey a minimum 4,455 square metre on-site parkland dedication to the City pursuant to Section 42 of the Planning Act which conveyance shall satisfy the owner's parkland dedication requirements pursuant to Section 42 of the Planning Act; to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Ward Councillor subject to the following:
 - (i) the owner shall convey, or cause to be conveyed, the on-site parkland, which will include the City standard base park improvements, to the City no later than 24 months after the issuance of the first above-grade building permit for Building A, subject to extensions, including but not limited to seasonality, satisfactory to the General Manager, Parks, Forestry and Recreation;
 - (ii) The owner of Building A is required to obtain an above-grade building permit for Building A prior to obtaining an above-grade building permit for any of Building B, Building C, Building D, or Building F.
 - (iii) The on-site parkland to be transferred to the City shall be free and clear, above and below grade, of all easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, Parks, Forestry and Recreation, however, it is acknowledged that the on-site parkland may be subject to a temporary new watermain easement substantially in accordance with Drawing C-106, 750mm Diameter Watermain Realignment Plan and Profile, prepared by Stantec Consulting Ltd., dated April 29, 2022, unless otherwise satisfactory to the General Manager, Parks, Forestry and Recreation;
 - (iv) Prior to the issuance of the first above-grade building permit, excluding a permit for demolition or a rental/sales centre, the owner shall register, in a form and in priority to the satisfaction of the City Solicitor a restriction against title to the on-site parkland, pursuant to Section 118 of the Land Titles Act, to restrict the transferring and/or charging of these lands by the owner, other than as may be consented to in writing by the Chief Planner and Executive Director, City Planning or designate, which consent won't be unreasonably withheld and which for greater certainty, shall not be withheld to facilitate financing and development on the on-site parkland.

- (v) The Section 118 Restriction shall be released by the City of Toronto upon conveyance, to the City, of the on-site parkland.

- h. It is acknowledged that a private road is proposed and acceptable to the City, substantially as shown in By-law [Clerks to insert By-law No], and a public road is not required.

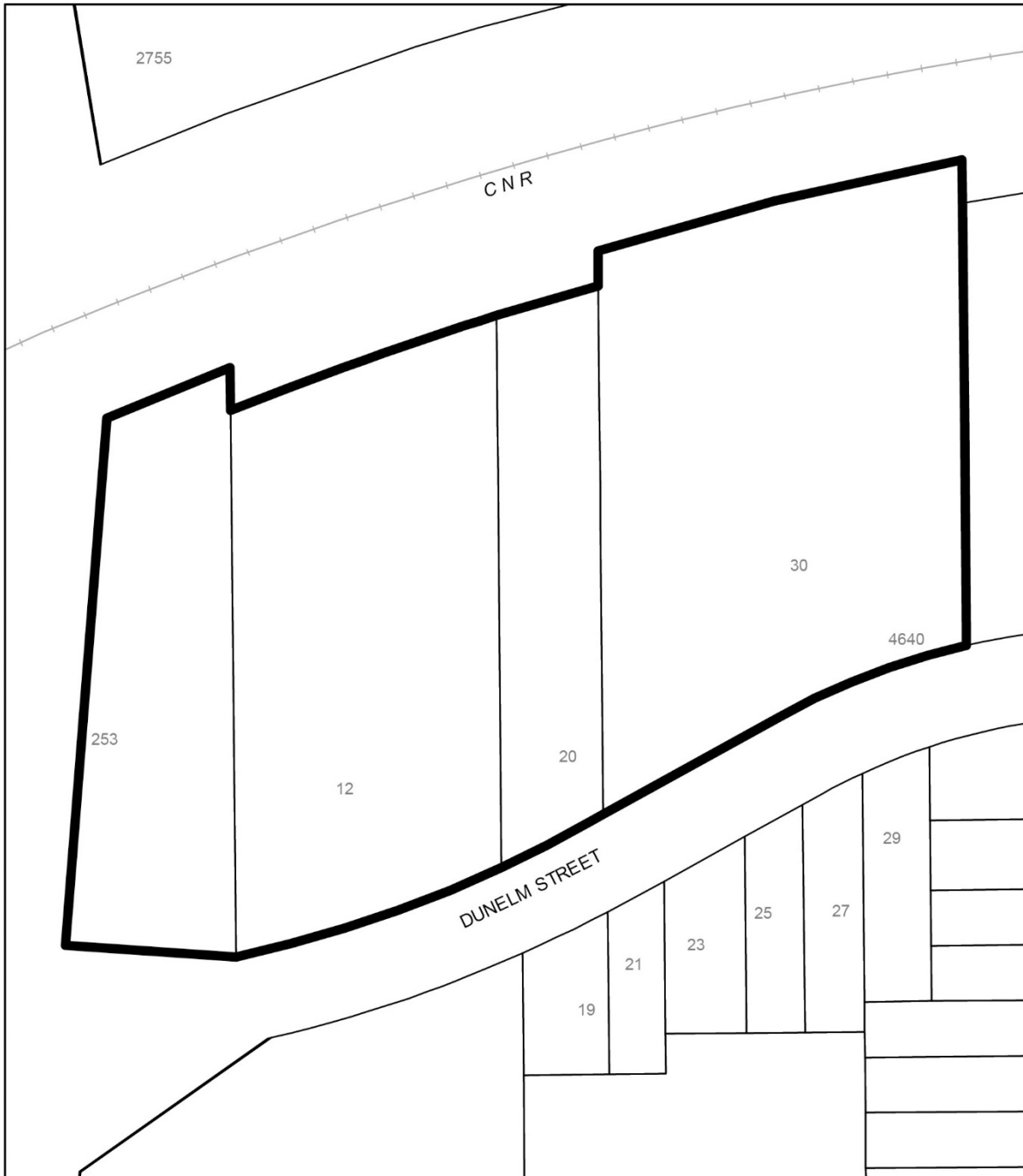
- i. The Owner shall satisfy the requirements of Metrolinx and the Canadian National Railway, regarding noise and vibration attenuation requirements and operational easement requirements, and shall insert any warning clauses in purchase and sale/tenancy agreements as required in connection with noise and vibration

- j. The Owner shall, at its own expense, address the following matters in any application for site plan approval for the development, which shall be determined and secured in a site plan agreement with the City, as applicable, all to the satisfaction of the Chief Planner and Executive Director, City Planning:
 - (i) Implementation of any required noise and vibration mitigation measures or other recommendations, as detailed in the Noise and Vibration Feasibility Study and addendum letter prepared by HCG Engineering last revised March 4, 2022 or subsequent accepted study, undertaken at the expense of the owner to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with Metrolinx;

 - (ii) Implementation of any derailment mitigation measures or other recommendations, as detailed in the Rail Safety Report, prepared by Stantec, last revised March 22, 2022 or as may be amended through a subsequent accepted study, undertaken at the expense of the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with Metrolinx;

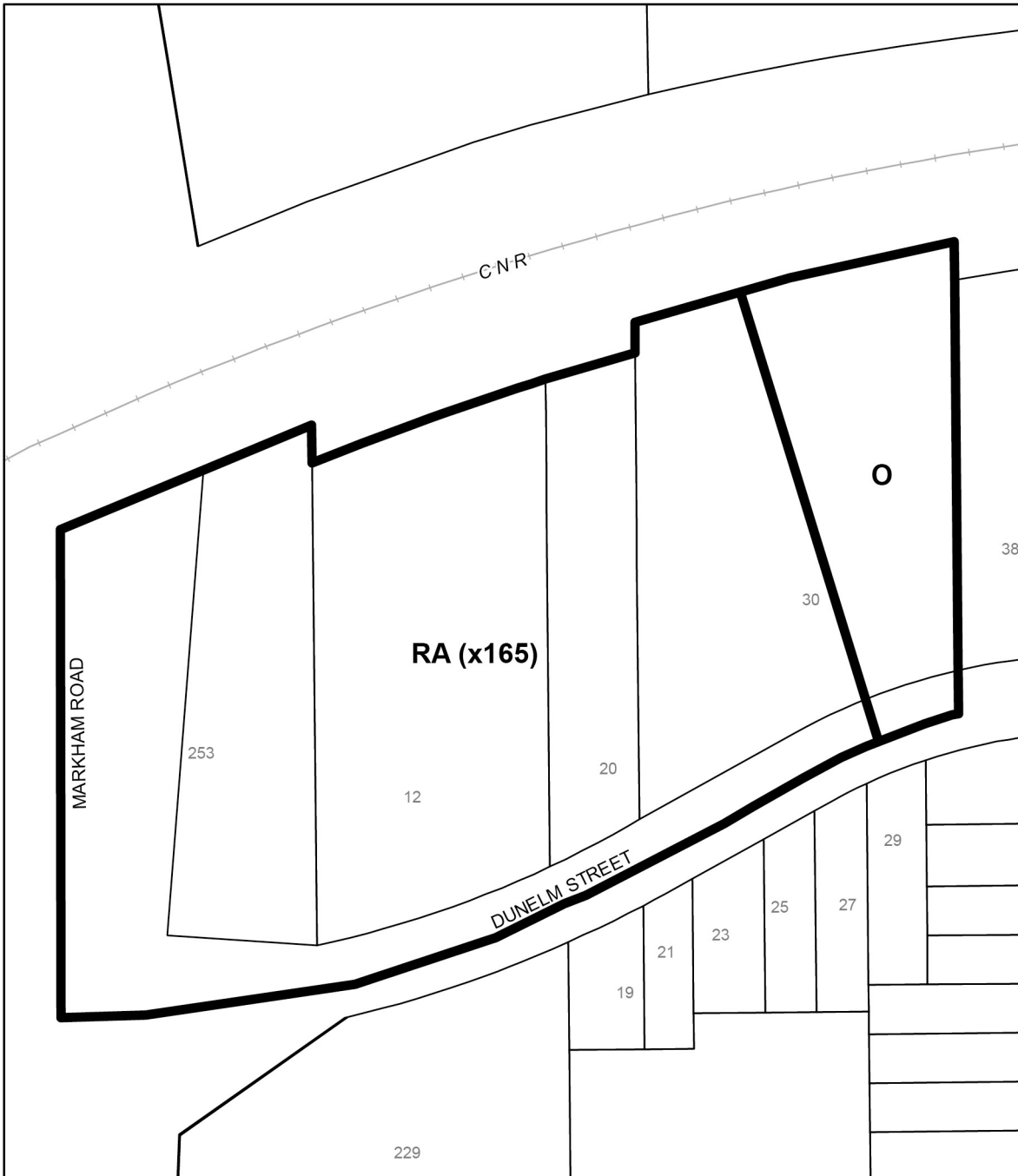
 - (iii) The Owner shall satisfy applicable signage requirements of the Toronto District School Board and the Toronto Catholic District School Board and shall insert warning clauses in purchase and sale agreements or tenancy agreements as required in connection with student accomodation; and,

 - (iv) The construction management plan include on-site contact during the construction process for residents and stakeholders to contact



 **TORONTO**
Diagram 1

**253 Markham Road and
12, 20, 30 Dunelm Street**
File # 16 173545 ESC 36 02



 **TORONTO**
Diagram 2

**253 Markham Road and
12, 20, 30 Dunelm Street**
File # 16 173545 ESC 36 02



TORONTO
 Diagram 3

**253 Markham Road and
 12, 20, 30 Dunelm Street**
 File # 16 173545 ESC 36 02