

Attachment 3: Draft Zoning By-law Amendment

Authority: Scarborough Community Council Item [-], as adopted by City of Toronto Council on [-]

CITY OF TORONTO

BY-LAW [Clerks to insert By-law number]

To amend By-law 988-2022, being a by-law to amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2024 as 253 Markham Road and 12, 20, 30 Dunelm Street.

Whereas Council of the City of Toronto has the authority 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*, as amended; 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 Subsection 37.1(3) of the *Planning Act*, R.S.O. c. P.13, Subsections 37(1) to (4) of the *Planning Act* as they read on the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act*, 2020 came into force, shall continue to apply to a by-law passed pursuant to the repealed Section 37(1), prior to the date that a municipality passes a community benefits charge by-law and this by-law was passed prior to that date; and

Whereas on August 15, 2022, City Council passed By-law 1139-2022 being the City's Community Benefits Charge By-law pursuant to Subsection 37(2) of the *Planning Act*; and

Whereas on July 22, 2022, City Council enacted by-law 988-2022 being a by-law to amend By-law 569-2013, as amended, which is a by-law described in repealed 37(1) of the *Planning Act* and this By-law does not amend or remove the requirement to provide facilities, services and matters and therefore subsections 37(1) to (4) of the *Planning Act*, as they read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act*, 2020 came into force continue to apply; and

Whereas subsection 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, 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 in return for certain increases in density and height as set out in By-law 988-2022, as amended by this By-law; and

Whereas the owner of the aforesaid lands and the City of Toronto wish to amend the provisions of By-laws 988-2022 that sets out the facilities, services and matters to be provided pursuant to Section 37 of the *Planning Act*, in order to permit "Building A" to proceed prior to the provision of said facilities, services and matters, to remove requirements relating to a program delivery agreement, and to amend requirements for the provision of larger units; 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, to be 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. By-law 988-2022 is amended by deleting and replacing Paragraph 4 with the following:

"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, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) On lands municipally known in the year 2024 as 253 Markham Road and 12, 20 and 30 Dunelm Street, the requirements of By-law 988-2022, as amended, are complied with, a building or structure may be constructed, used or enlarged in compliance with Regulations (B) to (EE) below;

- (B) For the purpose of this exception, the **lot** comprises the portion of the lands outlined by heavy lines on Diagram 2 attached to By-law 988-2022 that are in the Residential Apartment (RA) zone;
- (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”;
- (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, **established grade** is the Canadian Geodetic Datum elevation of 157.63;
- (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 and the elevation of the highest point of the **building** or **structure**;
- (H) Despite Regulation 15.10.40.10(1), the permitted maximum height of a **building** or **structure** is the number in metres following the letters “HT” as shown on Diagram 3 of By-law 988-2022;
- (I) Despite (H) above and Regulations 15.5.40.10(2) to (5), the following equipment and **structures** may project beyond the permitted maximum height as shown on Diagram 3 of By-law 988-2022:
 - (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 pipes, 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 988-2022 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) Regulation 15.10.30.40(1)(A) regarding **lot coverage** requirements does 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 988-2022;
- (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 the required minimum **building setbacks** and required minimum **main wall** separation distances shown on Diagram 3 of By-law 988-2022 as follows:
- (i) lighting fixtures, railings, rail safety crash walls, privacy screens, stairs, enclosed stairs, ornamental or architectural features, landscape features, landscaping and retaining walls, 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 rails, guardrails, wheelchair ramps, bicycle racks and related weather protection, gas and hydro meters, transformers and associated enclosures;

- (ii) Equipment used for the functional operation of the building, such as cooling tower, electrical, utility, mechanical and ventilation equipment, and structures that enclose, screen or cover them;
 - (ii) cornices, sills, eaves, to a maximum of 0.5 metres;
 - (iii) Canopies and awnings, including structural supports, to a maximum of 3.0 metres; and
 - (iv) Balconies to a maximum 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 residential occupant **parking spaces** per dwelling unit
 - (ii) A minimum of 2 residential visitor **parking spaces** plus 0.05 **parking spaces** for each **dwelling unit**, but not exceeding a maximum of 0.15 residential visitor **parking spaces** for each **dwelling unit**;
 - (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;
- (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 Regulation 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** may be closer than 6 metres from the **lot line** abutting the **street**;
- (U) Regulation 200.5.1.10(14) with respect to electric **vehicle** infrastructure does not apply;
- (V) 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 barrier free entrance to the **building** or a passenger elevator that provides access to the first **storey** of the **building**;
- (W) Regulations 15.5.100.1(1) and (2) regarding **driveway** width and **driveway** access to **apartment buildings** do not apply;
- (X) 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 988-2022, and such **loading spaces** may be provided for the shared use of any **buildings** on the **lot**;
- (Y) 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 988-2022 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 on the **lot** at a minimum rate of 2.3 square metres per **dwelling unit**, for the aggregate number of **dwelling units** in “Building A”, “Building B”, “Building C” and “Building D”;
 - (vi) No more than 25% of the required outdoor **amenity space** may be a **green roof**; and
 - (vii) **amenity space** is not required to be provided for **dwelling units** in “Building E” and “Building F”;
- (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% of the area of that level is occupied by **bicycle parking spaces**, until all required **bicycle parking spaces** have been provided;
- (CC) Despite Regulation 230.5.1.10(12) with respect to **bicycle maintenance facilities** does not apply;
- (DD) Despite Clause 15.5.50.10, **landscaping** requirements do not apply to the **lot**;
- (EE) For the purpose of this exception, each word or expression that is in bold font will have the same meaning as such word or expression as defined in Chapter 800 of Zoning By-law 569-2013, as amended, except for the following:
- (i) "Building A", "Building B", "Building C", "Building D", "Building E" and "Building F" mean the **buildings** outlined by black lines and accordingly labelled, as shown on Diagram 3 of By-law 988-2022;
 - (ii) 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
 - (iii) 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.

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

4. By-law 988-2022 is amended by deleting Schedule A "Section 37 Provisions" and replacing it with the amended Schedule A attached to and forming part of this By-law;

Enacted and passed on [Clerks to insert date].

Speaker

(Seal of the City)

John Elvidge,
City Clerk

SCHEDULE A
Section 37 Provisions

1. Prior to the issuance of any building permit for any Building except Building A, as shown on Diagram 3, attached to this By-law, 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 and 12, 20, 30 Dunelm Street, shown as on Diagram 2 of this By-law, and secured in an agreement or agreements entered into, prior to the issuance of any building permit for any building, except Building A, as shown on Diagram 3 of this By-law, 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 any Building except 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 Forestry and Recreation; 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 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) Enter into a financially secured Development Agreement for the relocation of a 750mm transmission watermain, according to the Site Servicing Review accepted by the Director of Engineering Review, prior to the issuance of any Building permit for any building except Building A;

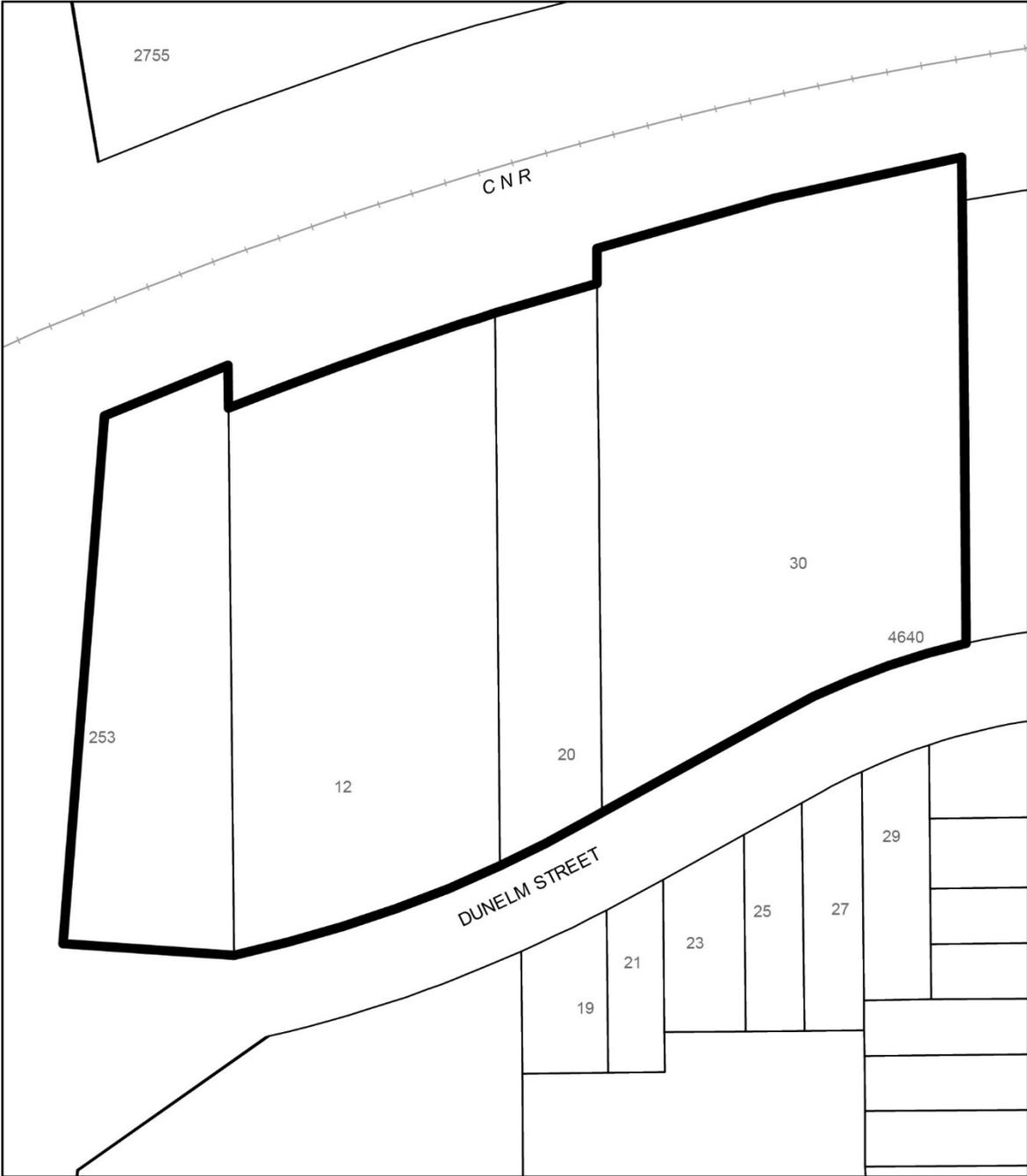
- (b) The Owner shall satisfy the requirements of Metrolinx and the Canadian National Railway, regarding noise and vibration attenuation requirements and operational easement requirements, and shall insert any warning clauses in purchase and sale/tenancy agreements as required in connection with noise and vibration;
- (c) 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;
- (d) The Owner shall provide and maintain a minimum number of units in accordance with the following, subject to minor variations satisfactory to the Chief Planner, and Executive Director, City Planning Division:
 - (i) a minimum of 25 percent of the total number of dwelling units must contain two or more bedrooms;
 - (ii) a minimum of 6 percent of the total number of dwelling units must contain three or more bedrooms;
 - (iii) any dwelling units with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
 - (iv) notwithstanding (ii) above, a minimum of 4% of the number of dwelling units in Building A, must contain three or more bedrooms;
- (e) 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 shall satisfy the owner's parkland dedication requirements pursuant to Section 42 of the *Planning Act*; to the satisfaction of the General Manager, Parks 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 any Building except Building A, subject to extensions, including but not limited to seasonality, satisfactory to the General Manager, Parks 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 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 No. C-106, 750mm Diameter Watermain Realignment Plan and Profile, prepared by Stantec Consulting Ltd., dated April 29, 2022, unless deemed otherwise to the satisfaction of the General Manager, Parks and Recreation;

- (iv) Prior to the issuance of the first above-grade building permit any Building, except Building A, 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 Executive Director, Development Review 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.
- (f) It is acknowledged that a private road is proposed and acceptable to the City, substantially as shown in By-law 988-2022 and a public road is not required.
- (g) 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;
- (h) 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 Executive Director, Development Review, or designate:
 - (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 Executive Director, Development Review, or designate 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 Executive Director, Development Review, or designate 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 accommodation; and,
- (iv) The construction management plan include on-site contact during the construction process for residents and stakeholders to contact.

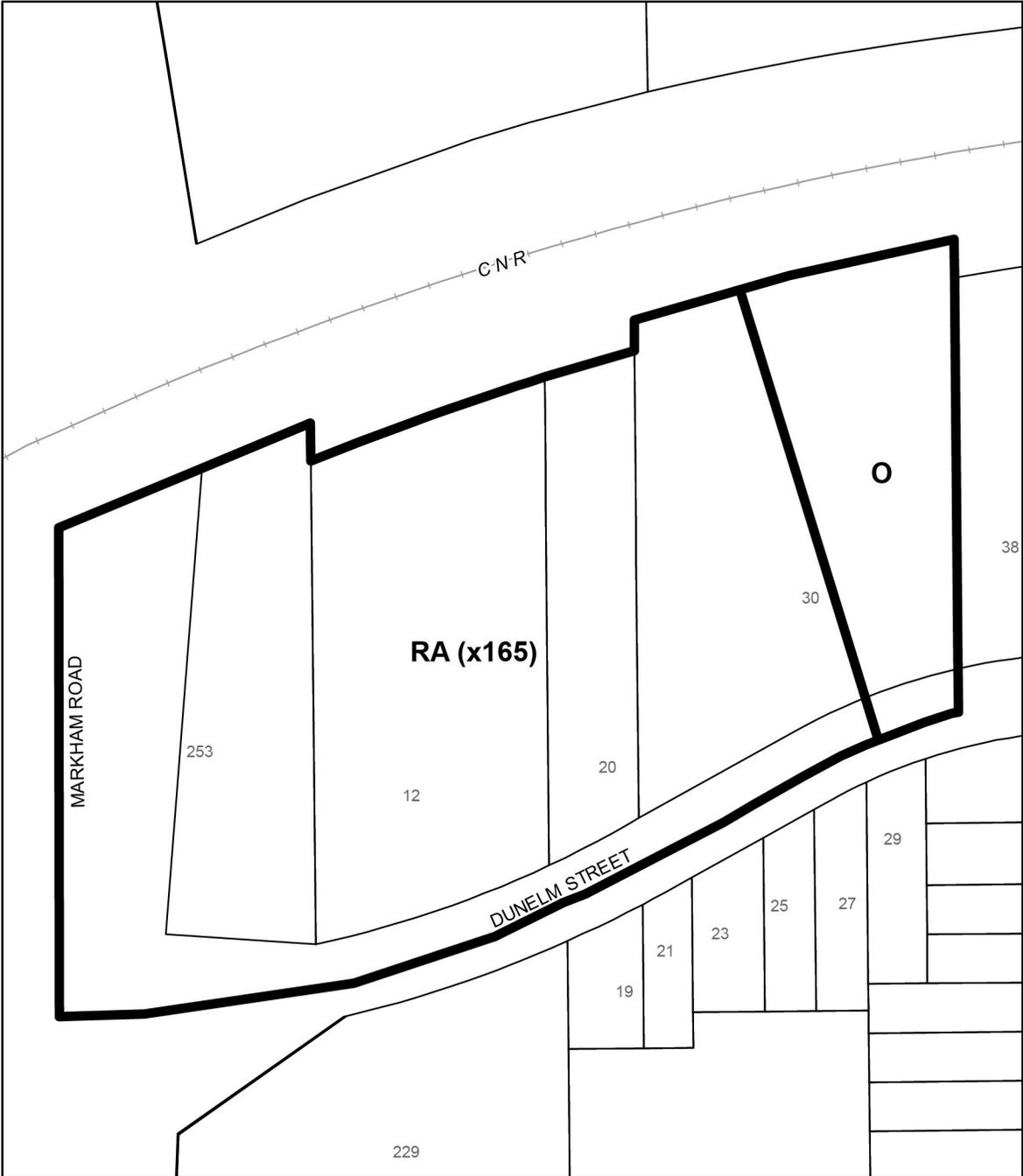


TORONTO
 Diagram 1

**253 Markham Road and
 12, 20, 30 Dunelm Street**
 File # 16 173545 ESC 36 0Z

City of Toronto By-law 569-2013
 Not to Scale
 06/09/2022





 **TORONTO**
Diagram 2

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


 City of Toronto By-law 569-2013
 Not to Scale
 06/21/2022



TORONTO
 Diagram 3

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

↑
 City of Toronto By-law 569-2013
 Not to Scale
 06/09/2022