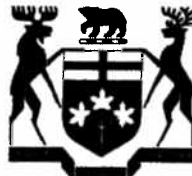


ISSUE DATE:

August 16, 2011



Ontario

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

RECEIVED  
AUG 19 2011  
TOWN OF MARKHAM  
CLERKS DEPT.

PL100538

Bayview Summit Developments Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Markham by specifically expanding the list of permitted uses in the "Major Commercial Area" designation in the Thornhill Secondary Plan in order to permit the redevelopment of the existing Shops on Steeles retail mall on the subject lands located at 2900 Steeles Avenue East into a mixed-use community consisting of 5 residential point towers ranging between 18 storeys and 32 storeys above mid-rise podiums of up to 10 storeys containing 1,787 residential units, as well as office uses, open spaces, community uses, the renovation of the existing 2-storey Sears Canada Outlet to include a new relocated food store and other retail uses in a "lifestyle" retail concept

Town of Markham File No. OP 07 130802

O.M.B. Case No. PL100538

O.M.B. File No. PL100538

Bayview Summit Developments Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law No. 2612, as amended, of the Town of Markham, by specifically seeking permission to allow residential uses and to incorporate site specific development standards to the "Community Commercial" zone for the purpose of permitting the redevelopment of the subject lands located at 2900 Steeles Avenue East into a mixed-use community consisting of 5 residential point towers ranging between 18 storeys and 32 storeys above mid-rise podiums of up to 10 storeys containing 1,787 residential units, as well as office uses, open spaces, community uses, the renovation of the existing 2-storey Sears Canada Outlet to include a new relocated food store and other retail uses in a "lifestyle" retail concept

Town of Markham File No. ZA 08 110745

O.M.B. Case No. PL100538

O.M.B. File No. PL100539

BEFORE:

J. CHEE-HING  
MEMBER

) Monday, the 15<sup>th</sup> day of  
)  
) August, 2011

**THIS MATTER** having come on for public hearing and the Ontario Municipal Board (the "Board"), in accordance with its Decision issued on June 20, 2011, having withheld its Order until this day to await receipt of written notification from the solicitor for the Town of Markham indicating that the Section 37 Agreement, attached as Schedule "E" to the Minutes of Settlement, has been executed by Bayview Summit Developments Limited and receipt of the modified Official Plan and Zoning By-law amendments in accordance with the Board's said Decision;

**THE BOARD ORDERS** that the appeal with respect to the Official Plan Amendment is allowed, and the Official Plan for the Town of Markham is amended as set out in Attachment "1" to this Order;

**AND THE BOARD ORDERS** that the appeal with respect to the Zoning By-law Amendment is allowed, and By-law No. 2612, as amended, of the Town of Markham is hereby amended in the manner set out in Attachment "2" to this Order. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes.

A handwritten signature in black ink, appearing to read "Joanne Hage", followed by a period. The signature is written in a cursive, flowing style.

SECRETARY

**ATTACHMENT '1'**

**OFFICIAL PLAN**

**of the**

**TOWN OF MARKHAM PLANNING AREA**

**AMENDMENT NO. XXX**

To amend the Official Plan (Revised 1987), as amended, and  
to incorporate Amendment No. 16 to the Thornhill Secondary Plan\_Secondary Plan (PD 3-1)  
for the Thornhill Planning District (Planning District No. 3).

***(SHOPS ON STEELES)***

***(March 2011)***

## **CONTENTS**

### **PART I - INTRODUCTION**

1.	GENERAL.....	4
2.	LOCATION .....	4
3.	PURPOSE .....	4
4.	BASIS .....	4

### **PART II - THE OFFICIAL PLAN AMENDMENT**

1.	THE OFFICIAL PLAN AMENDMENT .....	7
2.	IMPLEMENTATION AND INTERPRETATION .....	7

### **PART III - THE SECONDARY PLAN AMENDMENT**

1.	THE SECONDARY PLAN AMENDMENT .....	9
2.	IMPLEMENTATION AND INTERPRETATION .....	12

## **PART I - INTRODUCTION**

(This is not an operative part of Official Plan Amendment No. XXX)

## **PART I - INTRODUCTION**

### **1.0 GENERAL**

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2** PART II - THE OFFICIAL PLAN AMENDMENT constitutes Official Plan Amendment No. XXX to the Official Plan (Revised 1987), as amended and is required to enact Amendment No.16 to the Thornhill Secondary Plan (PD 3-1) for the Thornhill Planning District (Planning District No. 3). Part II is an operative part of this Official Plan Amendment.
- 1.3** PART III - THE SECONDARY PLAN AMENDMENT, attached thereto, constitutes Amendment No 16 to the Thornhill Secondary Plan (PD 3-1) for the Thornhill Planning District (Planning District No. 3). This Secondary Plan Amendment may be identified by the symbol PD 3-1-16. Part III is an operative part of this Official Plan Amendment.

### **2.0 LOCATION**

This Amendment to the Official Plan and to the Thornhill Secondary Plan (PD 3-1) applies to the Shops on Steeles property at 2900 Steeles Avenue East, located on the northeast corner of Don Mills Road and Steeles Avenue East.

### **3.0 PURPOSE**

The purpose of this Secondary Plan Amendment is to amend certain technical provisions of the Official Plan (Revised 1987) and to expand the list of permitted uses in the 'Major Commercial Area' designation of the Thornhill Secondary Plan (PD 3-1) for the Thornhill Planning District (Planning District No. 3) as it applies to the subject property, in order to permit redevelopment of the existing retail mall into a mixed-use development consisting of office, retail and high density residential uses.

#### **4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT**

This Amendment serves to specifically add provisions for high density residential uses on the subject property in addition to the currently permitted uses in the 'Major Commercial Area' designation of the Thornhill Secondary Plan. The location of the subject property represents an appropriate location for residential intensification in the form of high density residential housing, in conjunction with the redevelopment of the property for a new, updated and enhanced retail, office and commercial centre which will continue to serve as a large and highly specialized retail shopping facility in the Thornhill Planning District.

The lands subject to this Amendment currently contain an indoor mall, a two-storey department store, a grocery store, several pad restaurant and retail stores, a gas station and a large paved surface parking area. The existing development does not take full advantage of the property's location at the intersection of a provincial highway and two Regional arterial roads that are proposed to serve as higher order transit corridors in the future. Redevelopment of the property for mixed use commercial and high density residential will provide for a form of development that will be transit-supportive, enhance the diversity of housing types and sizes in the community, and provide opportunities for affordable housing.

Intensified mixed use commercial and residential development on the subject property is consistent with the provisions of the Provincial Policy Statement, and conforms with the Growth Plan for the Greater Golden Horseshoe, the Region of York Official Plan, and Growth Alternative B endorsed by Markham Council.

## **PART II - THE OFFICIAL PLAN AMENDMENT**

(This is an operative part of Official Plan Amendment No. *XXX*)



## **PART II – THE OFFICIAL PLAN AMENDMENT**

### **1.0 THE OFFICIAL PLAN AMENDMENT**

- 1.1** Section 1.1.2 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number *XXX* to the list of amendments, to be placed in numerical order including any required grammatical and punctuation changes.
- 1.2** Section 1.1.3 (c) of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number *XXX* to the list of amendments listed in the second sentence of the bullet item dealing with the Thornhill Secondary Plan PD 3-1, for the Thornhill Planning District, to be placed in numerical order including any required grammatical and punctuation changes prior to the words “to this Plan”.
- 1.3** Section 9.2.25 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number *XXX* to the list of amendments, to be placed in numerical order including any required grammatical and punctuation changes prior to the words “to this Plan”.
- 1.4** No additional changes to the text or schedules of the Official Plan (Revised 1987), as amended, are being made by this Amendment. This Amendment is also being made to incorporate changes to the text of the Thornhill Secondary Plan (PD 3-1) for the Thornhill Planning District (Planning District No. 3). These changes are outlined in Part III which comprises Amendment No. 16 to the Thornhill Secondary Plan (PD 3-1).

## **2.0 IMPLEMENTATION AND INTERPRETATION**

The provisions of the Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law in conformity with the provisions of this Amendment.

**PART III - THE SECONDARY PLAN AMENDMENT (PD 3-1-16)**

(This is an operative part of Official Plan Amendment No. XXX)

## **PART III - THE SECONDARY PLAN AMENDMENT (PD 3-1-16)**

### **1.0 THE SECONDARY PLAN AMENDMENT**

(Amendment No. 16 to the Thornhill Secondary Plan PD 3-1)

The Thornhill Secondary Plan (PD 3-1) for the Thornhill Planning District is hereby amended as follows:

- 1.1** Figure 6.3.2 attached hereto is hereby inserted into Section 6.3 MAJOR COMMERCIAL AREA at the end of Subsection 6.3.2 and Subsection 6.3.2 is hereby deleted and replaced with the following:

“6.3.2 The MAJOR COMMERCIAL AREA designation recognizes the location of a multi-use, multi-purpose centre offering a range of retail, service, commercial, office, community, institutional and residential uses on the property on the north side of Steeles Avenue between Highway 404 and Don Mills Road. The non-residential component of the property is to serve as a destination for major shopping and service commercial needs of the Thornhill Planning District.

The planned function of the property is to serve as a vibrant, sustainable, transit-supportive, mixed use residential and commercial centre which will provide a balanced range of retail, service commercial and high density residential uses. High density residential uses shall only be permitted in conjunction with the provision of a range of commercial uses comprising a major shopping destination.

The property is subject to the following policies:

**i) Land Use**

1. Land use will consist of a broad range of uses including retail, commercial, service commercial, office, community uses, institutional uses and high density residential uses.

2. In addition to the permitted land uses as found in Section 3.4.6.1 Major Commercial Area, subsection c) Land Uses, clause i), of the Official Plan (Revised 1987), as amended, the following uses are permitted:
  - apartment dwellings
  - multiple dwellings
  - open space over underground parking garage structures.

**ii) Maximum Density and Residential Units**

1. A maximum total floor space index (FSI) of 1.85 shall be permitted on the property for all uses, of which a maximum of 1.5 FSI shall apply to residential uses.
2. A maximum of 1,235 residential units shall be permitted.

**iii) Maximum Number of Storeys**

The maximum number of storeys shall be as set out in Figure 6.3.2. However, subject to conformity with all other provisions of this Plan, including provisions for maximum density and residential units, minor changes to the number of storeys of commercial buildings may be permitted without an amendment to this Plan, but in no circumstances shall the heights of residential or mixed residential commercial buildings be increased.

**iv) Urban Design Principles**

1. A publicly accessible private street system, designed to resemble public roads, shall be developed on the property to facilitate vehicular and pedestrian circulation, generally as illustrated on Figure 6.3.2. Precise location of the streets will be determined through Site Plan Control and minor variations will not require an amendment to this plan. The Private Street System will be owned privately and may be built upon any underground parking and building structures located on the property;

2. Built form will provide an appropriate transition in scale and heights between the proposed development and the surrounding low-rise community character to the north and west and medium-rise development to the south.
3. High-rise buildings above podium height shall be predominantly in the form of small-floorplate point towers, while the base of these buildings shall be in the form of podium buildings that form continuous street walls;
4. Separation distances between high-rise towers shall be sufficient to provide for appropriate light and space between buildings;
5. Transition and design of built form shall minimize impacts on neighbouring streets and properties including shadowing and uncomfortable wind conditions.
6. The development shall provide for an enhanced pedestrian realm. The pedestrian environment and street-level animation shall be enhanced by means of the following:
  - i. Street-related retail and commercial uses in the westerly portion of the area shown on Figure 6.3.2 should be emphasized along public and private streets traversing and bordering the development;
  - ii. Weather and wind protection, such as canopies and awnings shall be provided along street frontages;
  - iii. The ground floor elevations of buildings bordering public and private streets in the westerly portion of the area shown on Figure 6.3.2 traversing and bordering the development shall be set at a level that will allow for barrier free access from the sidewalk to the building entry; and,
  - iv. A linked pedestrian walkway system shall be provided between internal and external streets that is designed to minimize walking distances to existing and anticipated transit stops;

7. Surface parking areas shall generally be minimized, although on-street parking for retail customers will be encouraged;
8. Environmental sustainability should be enhanced by the use of sustainable materials, innovative energy and material conservation strategies and stormwater conservation techniques;
9. The development should expand the range and affordability of housing types in the surrounding neighbourhood; and,
10. The development should provide for a balanced mix of commercial, residential and employment uses.
11. The review of the first phase of the commercial redevelopment will address the principle of interior, privately-owned, publicly accessible mall space for community gathering, which will provide similar opportunities to the type of community gathering space in existence within the mall at the time of approval of this Official Plan Amendment. The specific size, location and configuration of this space shall be determined through the site plan approval process, to the satisfaction of the Town of Markham.

**v) Transportation Policies**

- i) To support future mixed use intensification on the site, the first phase of site plan approval, in accordance with the approved master site plan, shall include the dedication of land abutting Don Mills Road at no cost to the Regional Municipality of York to achieve a 22.5 m right of way from the existing centre line of construction of Don Mills Road along the entire frontage to facilitate future light rail transit (LRT). Should the gas station at the immediate northeast corner of Don Mills Road and Steeles Avenue East also redevelop, a similar land dedication will be required at the time of site plan approval of that block.
- ii) To ensure that future development is transit supportive, prior to development the applicant shall provide, for approval of the Town and Region, at the site plan stage:

- a comprehensive Transportation Demand Management program and implementation plan;
- a demonstration of how transit buses/vehicles can be accommodated on site; and,
- a demonstration of how a full moves intersection at the north end of the property can be implemented with respect to signal phasing and functional design with a future LRT service on Don Mills Road.

**vi) Section 37 Agreement**

The residential density permitted will be subject to provision of a cash payment for provision of additional community facilities and services by the Town with possible adjustment for provision of community space by the owner on the lands subject to this Subsection. This requirement will be implemented through an agreement between the Owner and the Town, pursuant to Section 37 (1) of the Planning Act R.S.O.

**vii) Hold Provisions**

Redevelopment of the site will occur in phases subject to a master conceptual site plan process and the phased provision of municipal infrastructure to the site including water and wastewater capacity. Accordingly, holding zone provisions shall be applied to the site and lifted by the Town of Markham upon confirmation by the Town of Markham that adequate servicing and transportation capacity is available.

In addition to any other applicable provisions of Section 7.3 c) iii), a zoning by-law amendment to remove the Hold 1 (H1) and Hold 2 (H2) symbols from the zoning designations shall not be passed until the following conditions have been met to the satisfaction of the Town of Markham and York Region as applicable:

- i) Conditions for removing the Hold 1 (H1) Provision:



- Payment of a Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in kind facilities, all to the satisfaction of the Commissioner of Development Services;
- The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;
- Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H1 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

ii) Conditions for removing the Hold 2 (H2) provision:

- Removal of the Hold 1 (H1) provision;
- Payment of a Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in

kind facilities, all to the satisfaction of the Commissioner of Development Services;

- The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;
- Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H2 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

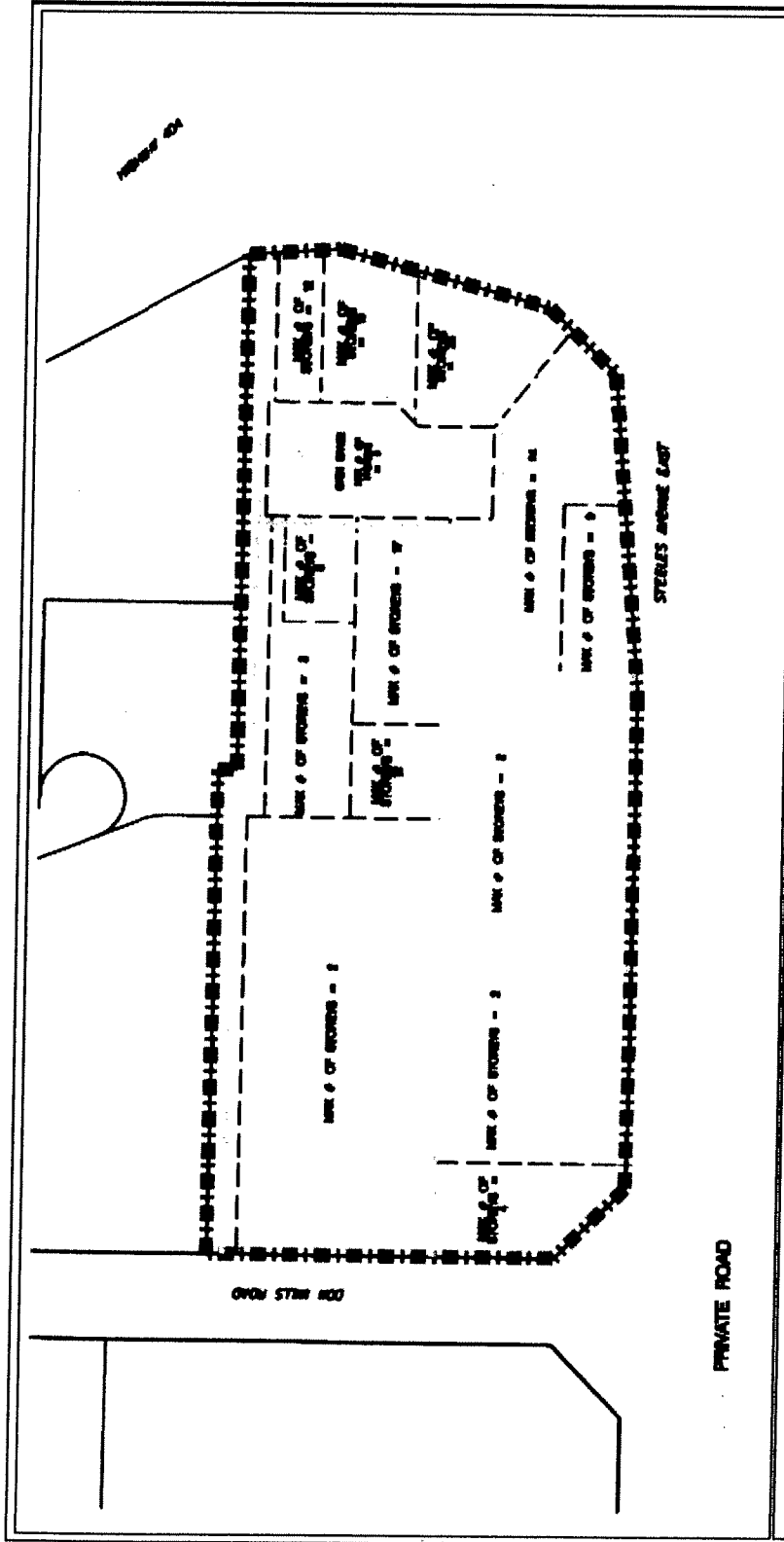
iii) Effect of lifting the Hold 1 (H1) and Hold 2 (H2):

The effect of lifting the Hold 1 (H1) and Hold 2 (H2) provisions shall be in accordance with the phasing plan approved by the Town and as set out in the implementing zoning by-law.”

## **2.0 IMPLEMENTATION AND INTERPRETATION**

The provisions of the Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by amendment/s to the Zoning By-law and site plan approval/s, as applicable, in conformity with the provisions of this Amendment.



SECONDARY PLAN AMENDMENT No. 16 TO THE  
THORNHILL SECONDARY PLAN (PD No. 3-1) (PART III OF O.P.A. No. xxx)

BOUNDARY OF AREA SUBJECT TO POLICIES IN SECTION 6.3.2

FIGURE No. 6.3.2	DRAWN BY: DO CHECKED BY: MS	SCALE: 1:1	DATE: 08/08/11
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## **ATTACHMENT "2"**

### **EXPLANATORY NOTE**

**BY-LAW 2010-xxx**

**A By-law to amend By-law 2612, as amended**

Bayview Summit Developments Limited  
2900 Steeles Avenue East

### **LANDS AFFECTED**

The By-law applies to lands located on the north east corner of Don Mills Road and Steeles Avenue, in Markham.

### **EXISTING ZONING**

The lands subject to this By-law are presently zoned Community Commercial [CC] by By-law 2612, as amended.

### **PURPOSE AND EFFECT**

The purpose and effect of this By-law is to rezone the western portion of the subject site to the Community Amenity One [CA1] to permit a retail and office development; to rezone the eastern portion of the site to Community Area 2 [CA2] to permit a mixed use high density residential and commercial development; and to rezone land in the north eastern portion of the site to Open Space One [OS1]. The By-law applies site-specific zoning provisions for new CA1 and CA2 zones, including site-specific permitted uses, height provisions, setbacks, maximum residential units and floor area and parking provisions. The zoning by-law incorporates Holding One (H1) and Holding Two (H2) provisions to the CA2 Zone to provide for phased development of the mixed use area.

The specific conditions for removal of these holding provisions are set out in the By-law and relate to the following matters:

Conditions for removal of the H1 provision:

- Payment of Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in kind facilities, all to the satisfaction of the Commissioner of Development Services;
- The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;

- Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H1 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

Effect of lifting the H1 provision:

- A maximum of 748 residential units shall be permitted;

Conditions for removal of the H2 provision:

- Removal of the Hold 1 (H1) provision;
- Payment of a Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in kind facilities, all to the satisfaction of the Commissioner of Development Services;
- The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;

- Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H2 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

Effect of lifting the H2 provision:

- The remaining residential units shall be permitted

BY-LAW 2011-XXX

*A By-law to amend By-law 2612, as amended*

*To rezone the lands at the north east corner of Don Mills Road and Steeles Avenue to permit high density mixed commercial and residential development*

---

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. That By-law 2612, as amended is hereby further amended as it applies to the lands outlined on Schedule 'A' attached hereto as follows:
  - 1.1 By re-zoning the lands from the Community Commercial [CC] to the Community Amenity Area One [CA 1]; Community Amenity Area Two (Hold 1) [CA2(H1)]; Community Amenity Area Two (Hold 2) [CA2(H2)]; and Open Space One [OS1] Zones.
2. That By-law 2612, as amended is hereby further amended by adding the following to the list of zones in Section 3.2 as set out below:

*"Community Amenity Area One - CA1*

*"Community Amenity Area Two - CA2"*
3. Notwithstanding any other provision of By-law 2612, as amended, the provisions in this Section shall apply to only those lands denoted on Schedule 'A' attached hereto. All other provisions of this By-law unless specifically modified/amended by this Section, continue to apply to the lands subject to this Section.

**3.1 Use Definitions**

- a. **"Drive-Through Service Facility"** means a building or structure or part thereof where goods and/or services are offered to the public within a parked or stationary vehicle by way of a service window or kiosk, where goods, money or materials are exchanged. Kiosks within a parking garage or associated with a surface parking area are not considered to be drive-through service uses.



b. **“Open Space”** means an open recreational area which includes one or more of the following facilities or activities:

- i. Areas for walking, sitting or outdoor recreation including playgrounds, picnic areas, hard or soft landscaped areas, athletic fields or outdoor skating rinks;
- ii. A *parking garage* subject to the following:
  - The *parking garage* being for *motor vehicle* or bicycle parking and/or *storage lockers*;
  - The *parking garage* being located entirely below grade except that associated stairwells and ventilator shafts may project above established grade.

### 3.2 Permitted Uses

#### 3.2.1 Only Uses Permitted in the Community Amenity Area One [CA1] Zone

(i) NON-RESIDENTIAL

- a) *art galleries*;
- b) *business offices*;
- c) *clubs, private*;
- d) *commercial fitness centres*;
- e) *community centres*;
- f) *day nurseries*;
- g) *financial institutions*;
- h) *gas bar*;
- i) *libraries*;
- j) *medical offices*;
- k) *motor vehicle service centre not to exceed 743 square metres gross floor area*
- l) *parks*;
- m) *personal service shops*;
- n) *places of worship*;
- o) *recreational establishments*;
- p) *repair shops*;
- q) *restaurants*;
- r) *restaurants, take-out*;
- s) *retail stores*;
- t) *schools, commercial*;
- u) *schools, private*;
- v) *schools, public*;

- w) *supermarket;*
- x) *theatres*

### 3.2.2 Only Uses Permitted in the Community Amenity Area Two [CA2] Zone

(i) RESIDENTIAL:

- a) *apartment dwellings;*
- b) *multiple dwellings*

(ii) NON-RESIDENTIAL:

- a) *art galleries;*
- b) *business offices;*
- c) *clubs, private;*
- d) *commercial fitness centres;*
- e) *community centres;*
- f) *day nurseries;*
- g) *financial institutions;*
- h) *libraries;*
- i) *medical offices;*
- j) *parks;*
- k) *personal service shops;*
- l) *places of worship;*
- m) *recreational establishments;*
- n) *repair shops;*
- o) *restaurants;*
- p) *restaurants, take-out;*
- q) *retail stores;*
- r) *schools, commercial;*
- s) *schools, private;*
- t) *schools, public;*
- u) *supermarket;*
- v) *theatres*

### 3.2.3 Only Uses Permitted in the Open Space One [OS1] Zone

- a) *open space*

### 3.2.4 Zone Standards

The following specific zone standards apply to the lands set out in Schedule "A" attached to this by-law.

#### a) Floor Space Index

The maximum *Floor Space Index (FSI)* for all of the buildings on the lands delineated on Schedule 'A' to this By-law shall not exceed 1.85 FSI. Notwithstanding the foregoing, the total FSI for all permitted residential uses shall not exceed 1.5 FSI.

For the purposes of this By-law, only the following floor areas are exempted from the *FSI* calculation:

- *motor vehicle* or bicycle parking areas above or below grade;
- rooftop mechanical penthouses;
- lobbies located below grade;
- loading areas located below grade;
- storage lockers located below grade;
- garbage/recycling, utility, mechanical, and electrical rooms located below grade;

#### b) Height

The maximum height of any building or structure shall be as shown on Schedule 'B' to this By-law, measured to:

- i) the highest point of the roof surface or the parapet, whichever is the greater, of a flat roof;
- ii) the deckline of a mansard roof;
- iii) the mean level between eaves and ridge of a gable, hip or gambrel roof or other type of pitched roof;
- iv) in case of a structure with no roof, the highest point of said structure.

Notwithstanding the above, any ornamental roof construction features including towers, stair enclosures, steeples or cupolas, shall not be included in the calculation of height. Mechanical features, including their screening, and structures containing the equipment necessary to control an elevator, are permitted to project a maximum of 5.0 metres above the highest point on the roof surface, regardless of the height of the building. Lobbies and stairwells serving rooftop parking are permitted to project a maximum of 5.5 metres.

**c) Minimum yard setbacks:**

The minimum required yard setbacks for any building or structure shall be as shown on Schedule 'C' to this By-law.

In the CA1 zone, the underground parking garage along the Steeles Avenue East and Don Mills Road *lot lines* must be located entirely below the existing geodetic elevation at the *lot lines*.

For greater clarity, the *lot line* adjacent to Don Mills Road shall be the *lot line* as it exists after the conveyance to York Region of the lands required to ensure a minimum 22.5 m right of way width from the existing centre line of construction of Don Mills Road.

**d) Maximum number of *dwelling units*:**

The maximum number of *dwelling units* permitted is 1,235.

**e) Residential Floor Area**

Schedule 'B' identifies two areas with a maximum residential floor area as follows:

- i) Within the block identified as \*1 on Schedule 'B' the maximum floor area of any storey of a residential tower above 219.53 metres geodetic elevation above sea level shall be 850 square metres.
- ii) Within the block identified as \*2 on Schedule 'B' the maximum floor area of any storey of a residential tower above 239.53 metres geodetic elevation above sea level shall be 850 square metres.

For the purposes of this provision, the floor area is deemed to include all of the horizontal space between the exterior faces of the exterior walls of the building at each floor level, whether it is broken or not by elevator shafts, stairwells, or similar breaks in the floor.

**f) Minimum Separation Distances**

The minimum separation distance between portions of buildings above 219.53 metres geodetic elevation above sea level shall be 30 metres, except as shown on Schedule 'B'.

**g) Maximum permitted projections**

Notwithstanding the foregoing, encroachments into the permitted yard setback shall be as follows:

<b>Structure</b>	<b>Maximum permitted projection</b>
Eaves, cornices, ornamental or architectural elements, light fixtures, balustrades, mullions, window sills, and bay windows	Maximum projection of 0.3 metres into the required yard setback
Canopies, balconies and awnings	Maximum projection of 2.4 metres into the required yard setback

### 3.2.5 Special Parking Provisions

A minimum number of parking spaces are required for all of the uses permitted as set out below:

Use	Minimum Parking Spaces required
<i>Apartment dwelling</i> <i>Multiple dwelling</i>	<i>1 parking spaces per dwelling unit plus 0.1 parking spaces per dwelling unit for visitors</i>
<i>Business Offices</i>	<i>1 parking space per 30.0 square metres of net floor area</i>
<i>Commercial fitness centres, financial institutions, recreational establishments, repair shops, restaurants, take out restaurants, retail stores, schools commercial, supermarkets.</i>	<i>1 parking space for every 30.0 square metres of net floor area and for supermarkets 1 parking space per 20 square metres of net floor area</i>
<i>Places of Worship</i>	<i>The greater of:  1 parking space per 4 persons of the worship area capacity; or  1 parking space per 9 square metres of the net floor area of the worship area(s) and any accessory use areas, excluding any residential uses</i>

### 3.2.6 Special Site Provisions

The following additional provisions shall apply:

- a) *Outdoor storage* use is not permitted.
- b) The establishment of a *drive-through service facility* associated with any use is not permitted.

- c) Nothing in this By-law shall be interpreted to prevent the construction of a *parking garage* located below grade for the purpose of *motor vehicle* or bicycle parking and/or *storage lockers* on any portion of the lands identified on Schedule A to this By-law.
- d) Nothing in this By-law shall prevent the use of land for a sales office for the sale of residential, commercial or office *suites* provided that the *suites* to be sold are to be located on lands within the limits of the Town of Markham.
- e) Outdoor display, sales, dining and patio uses are permitted.
- f) The minimum gross floor area for all permitted uses in the Community Amenity Area One [CA1] Zone shall be 18,600 m<sup>2</sup>.
- g) The applicant shall be required to enter into a Section 37 Agreement to secure provision of community facilities and services by the Town.
- h) The lands shown in Schedule A shall be treated as one *lot* for the purposes of this By-law.

## **4 HOLDING PROVISIONS**

The Hold 1 (H1) and Hold 2 (H2) zones are shown on Schedule 'A' attached to this By-law.

### **4.1 Uses Permitted Prior to the Lifting of a Holding Provision**

Only non-residential uses are permitted prior to the removal of the H1 provision and non-residential uses continue to be permitted prior to the removal of the H2 provision.

### **4.2 Conditions for Removing the H1 Provision**

The Hold 1 (H1) Provision shall not be lifted until the following conditions have been met to the satisfaction of the Town of Markham:

- i) Payment of Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in kind facilities, all to the satisfaction of the Commissioner of Development Services;
- ii) The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;
- iii) Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- (iv) Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- v) Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H1 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

#### **4.3 Effect of lifting the Hold 1 (H1) provision:**

That the lifting of the Hold 1 (H1) provision has the effect of permitting a maximum of 748 *dwelling units* on the lands subject to this By-law.



#### **4.4 Conditions for Removing the Hold 2 (H2) Provision**

The Hold 2 (H2) Provision shall not be lifted until the following conditions have been met to the satisfaction of the Town of Markham:

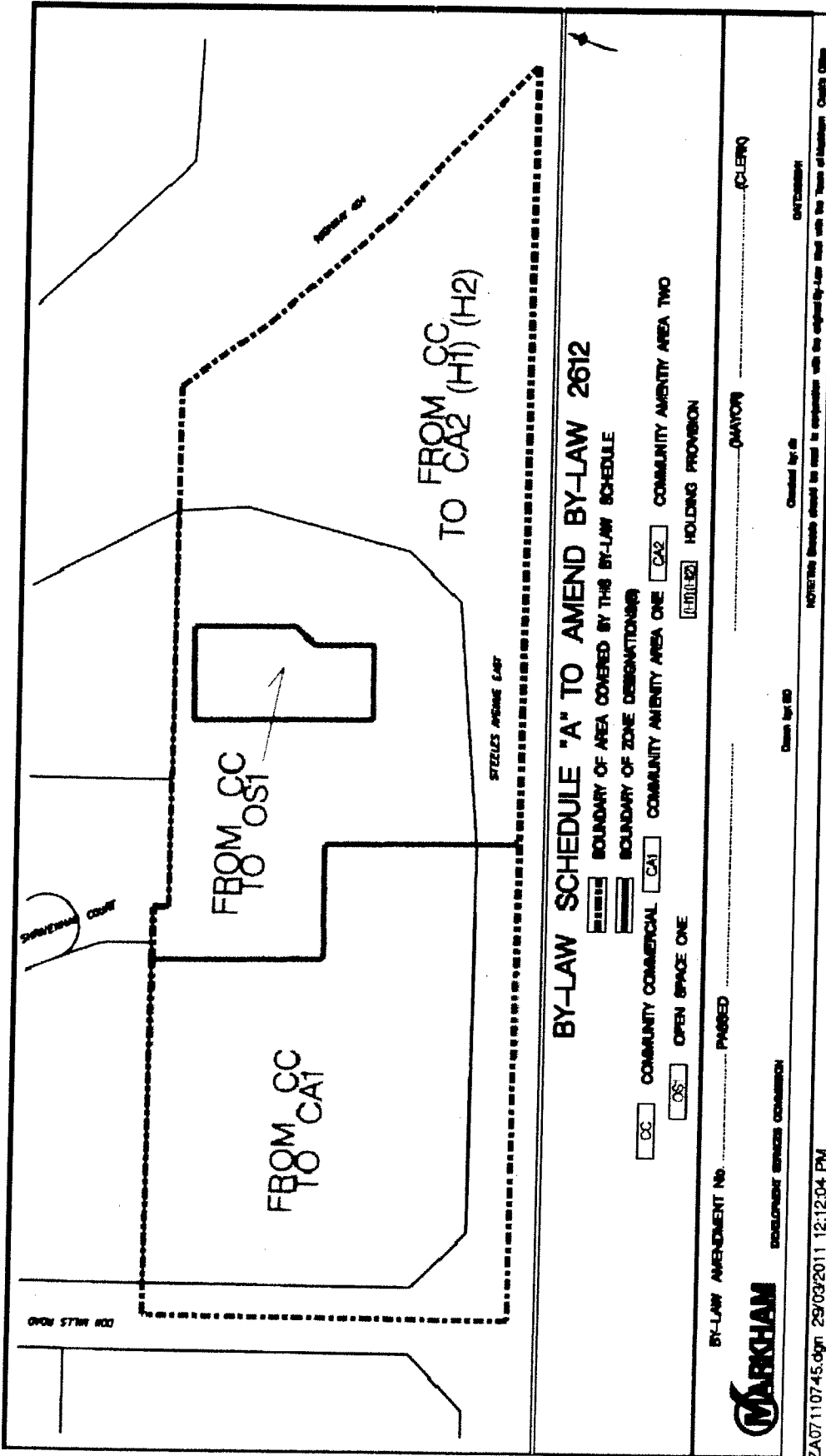
- i) Removal of the Hold 1 (H1) provision
- ii) Payment of a Section 37 financial contribution and/or satisfactory arrangements being in place for provision of in kind facilities, all to the satisfaction of the Commissioner of Development Services;
- iii) The Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution granting additional servicing allocation to provide for the number of dwelling units permitted;
- iv) Submission of a municipal servicing study to the satisfaction of the Director of Engineering in consultation with York Region;
- v) Execution of one or more Development Agreement(s) as may be required between the Town, the Owner, and where applicable, York Region and the City of Toronto, relating to the construction, financing, and implementation of off-site servicing infrastructure improvements, if required by the Town;
- vi) Submission of the following:
  - a transportation monitoring study of the travel characteristics associated with the uses developed on the subject lands prior to the lifting of the H2 provision, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto; and
  - an updated transportation impact study using the findings of the transportation monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region and the Director of Transportation Services, North District, City of Toronto.

#### **4.5 Effect of Lifting the Hold 2 (H2) Provision**

That lifting of the Hold 2 (H2) provision has the effect of permitting the remaining permitted *dwelling units* on the lands subject to this by-law;

5. All other provisions of By-law 2612, as amended, not inconsistent with the provisions of this By-law, shall continue to apply.

**APPROVED BY ONTARIO MUNICIPAL BOARD ON \_\_\_\_\_, 2011**



# BY-LAW SCHEDULE "A" TO AMEND BY-LAW 2612

☒ BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE

☒ BOUNDARY OF ZONE DESIGNATIONS

☐ CC COMMUNITY COMMERCIAL ☐ CA1 COMMUNITY AMENITY AREA ONE ☐ CA2 COMMUNITY AMENITY AREA TWO ☒ OS OPEN SPACE ONE ☐ HOLDING PROVISION

BY-LAW AMENDMENT NO.  PASSED



DEVELOPMENT SERVICES COMMISSION

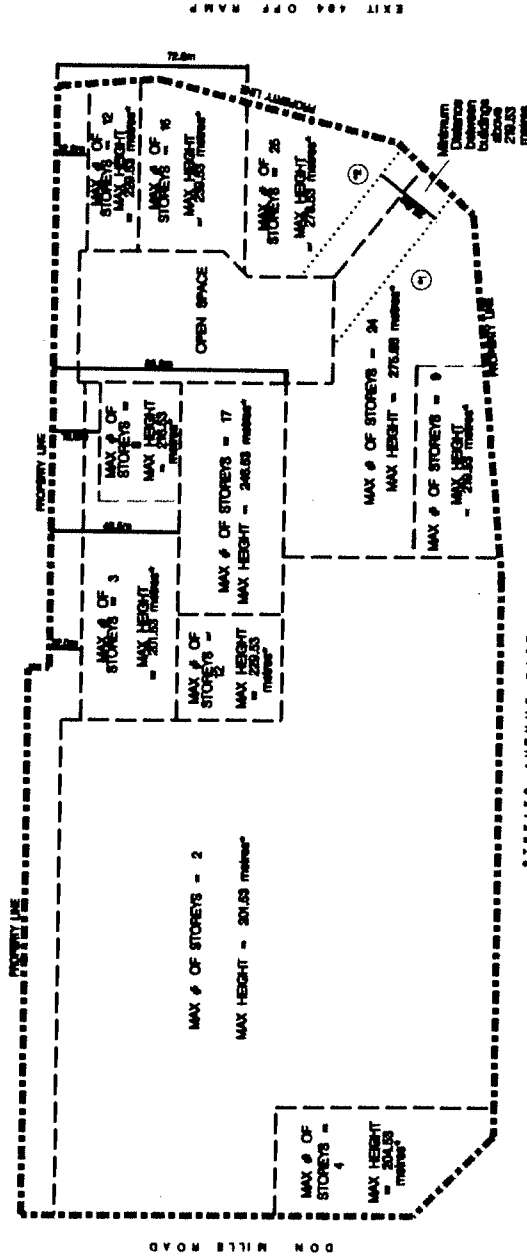
DATE

(CLERK)

Drawn by: 80

Checked by: 80

DATE: 2011/03/29



\* ORIOLETTIC ELEVATION ABOVE SEA LEVEL

# BY-LAW SCHEDULE "B" TO AMEND BY-LAW 2612

BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE

BY-LAW AMENDMENT No. .... PASSED



DEVELOPMENT SERVICES COMMISSION

..... (MAYOR)

..... (CLERK)

Drawn by: DO

Checked by: DO

DATE: 2011/03/29

NOTE: This Schedule should be read in conjunction with the original By-Law filed with the Town of Markham Clerk's Office

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