

## **EXPLANATORY NOTE**

### **BY-LAW 2011-196**

#### **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 2011-196

*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*

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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:

Structure	Maximum permitted projection
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>	The greater of:  <i>1 parking space per 4 persons of the worship area capacity; or</i>  <i>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**

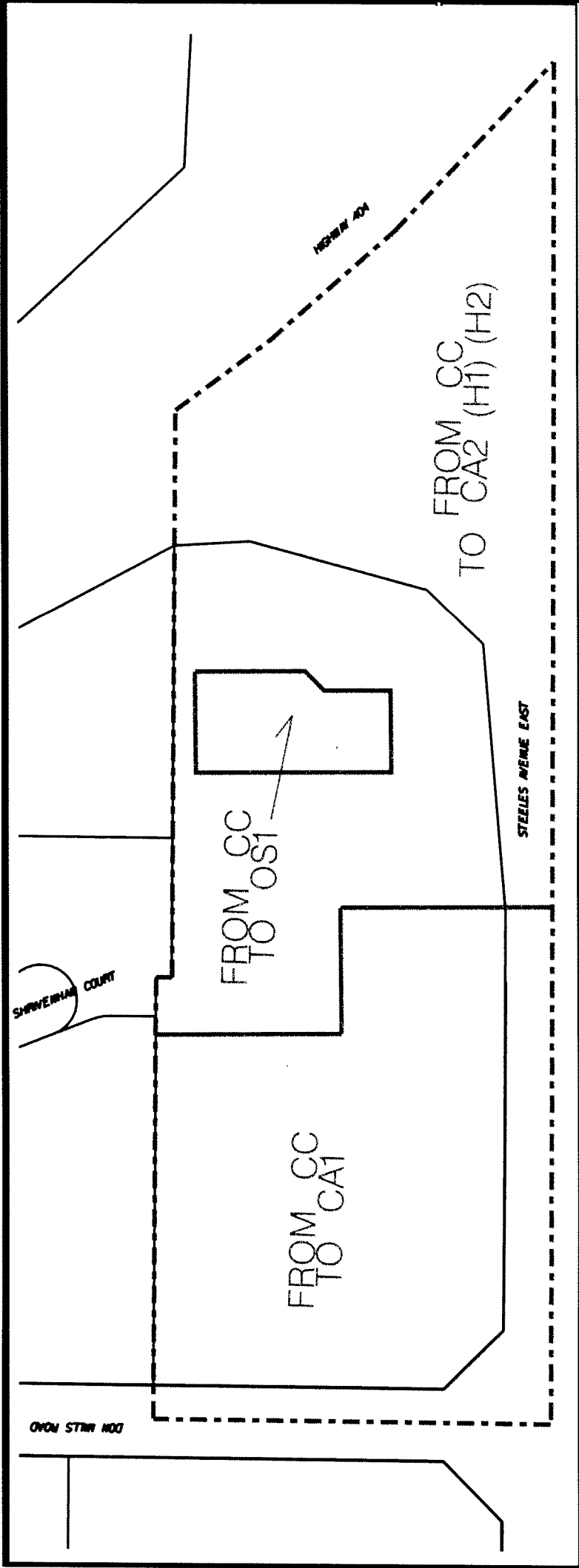
That lifting of the Hold 2 (H2) provision has the effect of permitting the remaining permitted *dwelling units* on the lands subject to this by-law;

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

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**APPROVED BY ONTARIO MUNICIPAL BOARD ON AUGUST 16, 2011**

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

 BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE

 BOUNDARY OF ZONE DESIGNATIONS(S)

 COMMUNITY COMMERCIAL  COMMUNITY AMENITY AREA ONE  COMMUNITY AMENITY AREA TWO

 OPEN SPACE ONE  HOLDING PROVISION

BY-LAW AMENDMENT No. 2011-196 APPROVED BY OMB ON AUGUST 16, 2011



DEVELOPMENT SERVICES COMMISSION

Drawn by: DO

Checked by: rb

DATE:03/25/11

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



**BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE**

BY-LAW AMENDMENT No. 2011-196 APPROVED BY OMB ON AUGUST 16, 2011

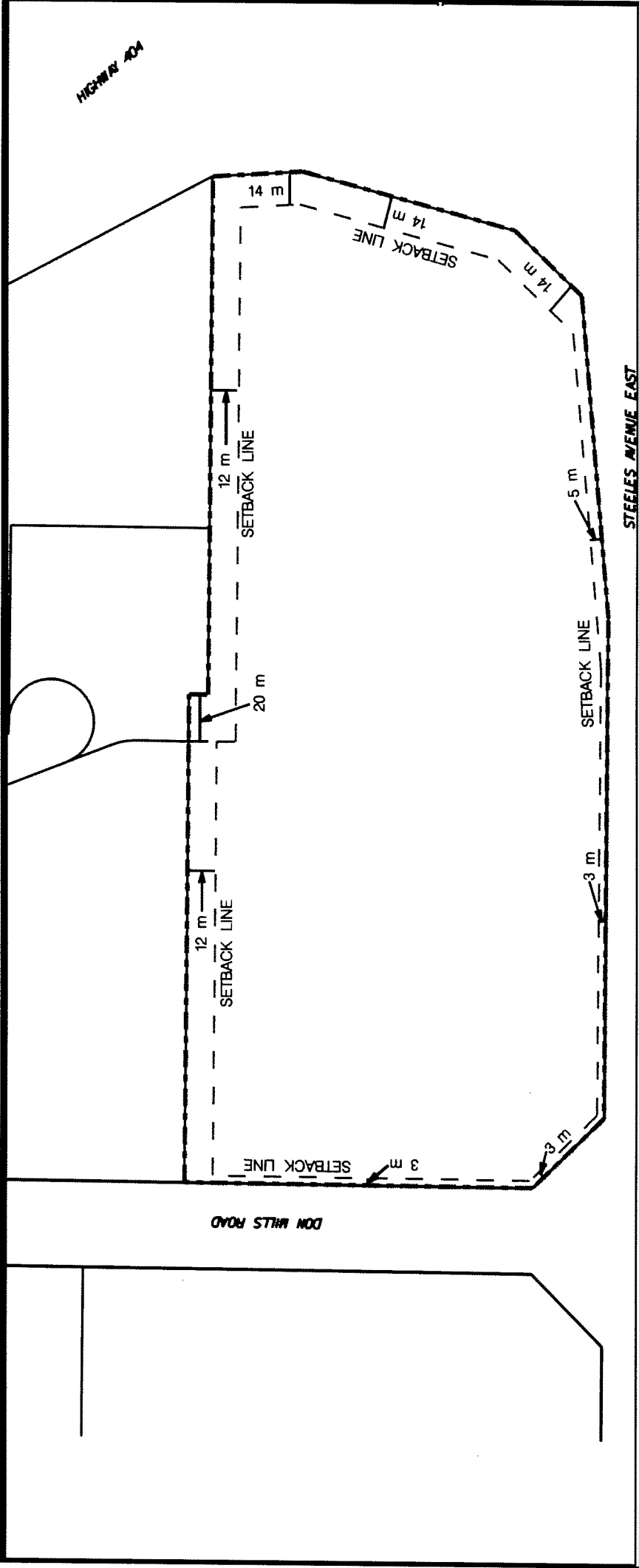


Drawn by: DD

Checked by: rb

DATE: 03/25/11

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



BY-LAW SCHEDULE "C" TO AMEND BY-LAW 2612

 BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE

BY-LAW AMENDMENT No. 2011-196 APPROVED BY OMB ON AUGUST 16, 2011



DEVELOPMENT SERVICES COMMISSION

Drawn by: DD

Checked by: tb

DATE: 03/25/11

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