

Authority: Toronto and East York Community Council Item 23.55,
as adopted by City of Toronto Council on February 23, 24 and 25, 2009
Enacted by Council: February 25, 2009

CITY OF TORONTO

BY-LAW No. 225-2009

To amend General Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to lands known municipally as 40 Dovercourt Road.

WHEREAS the Council of the City of Toronto has provided adequate information to the public and has conducted at least one public meeting in accordance with the *Planning Act* regarding the proposed Zoning By-law amendment; and

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law 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 or matters in return for an increase in the height or density of development, a 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 lands known at the date of enactment of this By-law as 40 Dovercourt Road (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by Zoning By-law No. 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto;

The Council of the City of Toronto HEREBY ENACTS as follows:

Amending Appendix A, Map 49G-321 to rezone the lands shown within the heavy lines on Map 1 of this By-law from I1 D3 to RA.

1. EXCEPTIONS FROM ZONING BY-LAW No. 438-86, AS AMENDED

1. The following sections of Zoning By-law No. 438-86, as amended, do not apply to any building or structure to be erected or used on the *lot*:
 - Section 4 (2)
 - Section 4 (16)
 - Section 4(17)
 - Section 7 (2)
 - Section 7 (3) Part I
 - Section 7 (3) Part II 1

- Section 7 (3) Part II 3 through 7
 - Section 7 (3) Part IV
2. Nothing in Section 12(2) of Zoning By-law No. 438-86, as amended shall apply to prevent construction of any building or structure on the *lot* in accordance with this by-law.

2. PERMITTED USES

1. Notwithstanding the uses permitted in the RA zone by Section 7(1)(f) of Zoning By-law No. 438-86, as amended, only the uses listed in the chart below and accessory uses thereto are permitted on the *lot*, subject to the following qualifications:
- (i) A use is permitted by the chart below when the letter “P” is set in the line opposite the use.
 - (ii) A use is permitted by the chart below when the letter “q” followed by a number or numbers is set in the line opposite the use but only subject to the qualification or qualifications bearing the number or numbers that follow the letter “q” forming part of this subsection.
 - (iii) Uses accessory to a use that is permitted by the chart are themselves permitted by the chart as accessory uses when an asterisk is set in the line opposite the designation of the use and in the column under the heading “Acc.”.

RESIDENTIAL USES		Acc.	RA
(i)	HOUSING COMPRISING DWELLING UNITS		
	Any of the uses permitted in a RA district in section 7(1)(f)(a)(i)	*	Q1, Q7
	<i>Artist live/work studio</i>	*	P
(ii)	SHARED HOUSING CONTAINING DWELLING ROOMS		
	Any of the uses permitted in a RA district in section 7(1)(f)(a)(ii)	*	Q1, Q7, Q8
(iii)	ASSOCIATED / ACCESSORY RESIDENTIAL USES		
	Any of the uses permitted in a RA district in section (7)(1)(f)(a)(iii)	*	Q1
NON-RESIDENTIAL USES			
(i)	PARKS, RECREATION, PLACES OF AMUSEMENT AND ASSEMBLY		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b) (i) except: A. arena, stadium, racetrack are not permitted;	*	Q2

		and B. <i>club</i> is not permitted		
	(ii)	COMMUNITY SERVICES, CULTURAL AND ARTS FACILITIES		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(ii)	*	Q4
	(iii)	GENERAL INSTITUTIONS		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iii)	*	P
	(iv)	RETAIL AND SERVICE SHOPS		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iv) except <i>A. entertainment facility</i> is not permitted		Q2, Q3, Q9
	(v)	WORKSHOPS AND STUDIOS		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(v)	*	P
	(vi)	OFFICES		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(vi)	*	P
	(vii)	AUTOMOBILE RELATED USES		
		<i>Parking area</i>	*	P
		<i>Parking garage</i>	*	P
		<i>Parking stacker</i>	*	Q5
		<i>Private garage</i>	*	P
		<i>Taxicab stand or station</i>	*	P
		<i>Car-share parking space</i>	*	P
	(viii)	WAREHOUSING AND STORAGE		
		<i>Cold storage locker plant</i>		P
		Cold storage plant		P
		<i>Storage warehouse, class A</i>		P
		<i>Wholesaling establishment – general</i>		P
	(ix)	INDUSTRIAL WORKSHOPS		
		Bookbinder's shop		P
		<i>Carpenter's shop</i>		P
		<i>Contractor's shop, class A</i>		P
		<i>Sheet metal shop</i>		P
		<i>Welder's shop</i>		P
		<i>Open air market</i>		P
	(x)	MANUFACTURING AND RELATED USES		
		<i>Bakery</i>		P
		Brewery		P
		<i>Ceramics factory</i>		P
		<i>Fur goods factory</i>		P
		<i>Garment factory</i>		P
		<i>Manufacturing plant</i>		P
		<i>Metal wares factory</i>		Q6
		<i>Packaging plant</i>		P

		<i>Pharmaceutical factory – secondary</i>		P
		<i>Printing plant</i>		P
		<i>Winery</i>		P
	(xi)	MISCELLANEOUS USES		
		<i>Animal hospital</i>		P
		<i>Commercial bakery</i>	*	P
		<i>Commercial school</i>	*	P
		<i>Hotel</i>	*	P
		<i>Market gardening</i>		P
		<i>Massage establishment</i>	*	P
		<i>Newspaper plant</i>	*	P
		<i>Ornamental structure</i>		P
		<i>Public transit</i>	*	P
		<i>Trade school</i>	*	P
		<i>Undertaker’s establishment</i>	*	P

The following qualifications are to be complied with before certain uses are permitted:

1. No person shall erect or use a building or structure having more than one basement or floor level below or partly below *grade* containing *dwelling units*.
2. A *bake-shop, caterer’s shop, restaurant, take-out restaurant, concert hall, place of amusement* or *place of assembly* are permitted uses and a *patio* may be provided in connection therewith except:
 - (i) no person shall use for the purposes of a *patio*:
 - (a) any portion of the building above the first *storey*;
 - (b) any part of the roof of a building containing one of those uses; or
 - (c) a portion of the *lot* between the building in which the associated *bake-shop, caterer’s shop, restaurant* or *take-out restaurant* is located and a *lot* abutting or within 10 metres of an ‘R’ district;
 - (ii) no person shall use any building or portion of a building for the purpose of a *bake-shop, caterer’s shop, restaurant* or *take-out restaurant* or combination thereof where the *non-residential gross floor area* of the building or portion thereof of any single establishment used for one of these purposes exceeds 300 square metres; and
 - (iii) the combined *non-residential gross floor area* of all *bake-shops, caterer’s shops, restaurants* and *take-out restaurants* on the *lot* cannot exceed 0.3 times the area of the *lot*.
3. A *retail store* or *showroom* is permitted provided the total *non-residential gross floor area* of any one *retail store* or *showroom* is limited to no more than 1800 square metres.

4. The premises of a *charitable institution, non-profit institution* or other community or social agency are permitted uses provided they are used for the purpose of providing a community service such as, but not limited to, employment, immigration, counselling, welfare or legal services.
5. A *parking stacker* is permitted, provided:
 - (i) it is *accessory*; and
 - (ii) it is located within a building.
6. A *metal wares factory* is permitted provided the use does not exceed 475 square metres.
7. One or more *dwelling units* or *dwelling rooms* in a building is permitted provided the building contains uses that are permitted in the RA district in which the building is located.
8. A *rooming house* is permitted provided the aggregate number of *dwelling rooms* and *dwelling units* does not exceed 25.
9. A *courier service* is permitted provided the *non-residential gross floor area* does not exceed 150 square metres.

3. NON-RESIDENTIAL USES

1. A minimum non-residential gross floor area of 0.7 times the area of the *lot* shall be provided. For the purpose of calculating the minimum non-residential gross floor area, non-residential uses are as defined in the chart in Section 2 of this By-law except:
 - (i) *non-residential gross floor area* relating to the following uses shall not count toward meeting the minimum non-residential use requirement of this By-law:
 - (a) uses listed in the chart in Section 2(c)(b)(vii) of this By-law under the heading “Automobile-Related Uses”;
 - (ii) *residential gross floor area* of an *artist live/work studio(s)* shall be permitted to be counted as *non-residential gross floor area* solely for the purpose of meeting the minimum non-residential density requirement of this section.

4. BUILDING ENVELOPES AND MAXIMUM HEIGHTS

1. Notwithstanding the “Height and Minimum Lot Frontage” Map 49G-321 contained in Appendix ‘B’ of Zoning By-law No. 438-86, as amended, no person shall erect or use a building or structure on the lands shown on Map 1 unless any portion of such building or structure located at or above ground is erected within the heavy lines shown on Map 2 and provided the following paragraphs are complied with:
- (i) No person shall erect or use a building or structure having a greater *height* in metres than the *height* limit specified by the numbers following the symbol “H” as shown on Map 2.
 - (ii) For clarity, where either no height limit or a height limit “H 0” is specified, no buildings or structures are permitted.
 - (iii) For clarity the *height* limit specified by the numbers following the symbol “H” as shown on Map 2 includes all stair towers, elevator overruns, mechanical equipment and/or enclosures for any of the foregoing on the roof of the building.
 - (iv) Notwithstanding (i) and (ii) above, no person shall erect a building or structure on the *lot* above finished ground level closer to a *lot* line than the heavy lines indicated on Maps 2 except:
 - (a) stairs (excluding stairs providing access to underground areas), landscape features, uncovered ramps (including garage and wheelchair ramps); and
 - (b) the permitted projections outlined in the chart below:

PROJECTING STRUCTURES	LOCATION OF PROJECTION	MAXIMUM PERMITTED PROJECTION
A. eaves, cornices, ornamental elements, architectural details	Beyond the heavy lines shown on Map 2 at that height	0.65 metres from the wall to which it is attached
B. uncovered platform that is landscaped open space and is less than 1.2m above finished grade	Beyond the heavy lines on Map 2 at that height	2.5 metres from the main exterior wall to which it is attached
C. porch (covered platform) that is landscaped open space and is less than 1.2 m above finished grade	Beyond the heavy lines on Map 2 at that height	2.5 metres from the most exterior portion of the wall to which it is attached
D. canopy	Beyond the heavy lines on Map 2 at that height	2.5 metres from the wall to which it is attached

E. balustrades and wind mitigation structures	Beyond the heavy lines shown on Map 2 at that height	the extent of the roof of the storey below, or 2.0 metres from the main exterior wall, whichever is greater
F. fences or safety railings	Beyond the heavy lines shown on Map 2 at that height	Height not to exceed 1.2 metres

- (v) No building or structure shall be erected which does not have:
- (a) a minimum of 2 *storeys*; and
 - (b) a minimum first *storey* floor-to-floor height of 4.5 metres.
- (vi) No person shall on any *lot* erect or use any building or any portion thereof for any use unless:
- (a) the main floor is located no more than 0.2 metres below and no more than 1.2 metres above the level of the sidewalk or publicly accessible area directly opposite the entry to the unit;
 - (b) all exterior entrance doors, other than service entrance doors, which provide access to a non-residential use within the building, shall be directly accessible from the public sidewalk by a level surface or a ramp not exceeding a gradient of 1 in 25 (4%).

5. RESIDENTIAL AMENITY SPACE

1. Notwithstanding Section 4(12) of By-law No. 438-86, the indoor residential amenity space can be provided in 2 non-contiguous rooms.

6. PARKING AND LOADING

1. Notwithstanding the provisions of Section 4(4)(b) of Zoning By-law No. 438-86, as amended:
- (i) a minimum number of *parking spaces* for residents shall be provided and maintained on the *lot* in accordance with the following table:

Unit type	Minimum <i>parking spaces</i>
Bachelor Unit	0.3 per unit
1 <i>bedroom</i> Unit	0.7 per unit
2 <i>bedroom</i> Unit	1.0 per unit
3 or more <i>bedroom</i> Unit	1.2 per unit
<i>live/work unit</i>	1.0 per unit

<i>Affordable (moderate-income) Bachelor Unit</i>	0.3 per unit
<i>Affordable (moderate-income) Unit with 1 or more bedrooms</i>	0.5 per unit
<i>Artist live/work unit</i>	0.1 per unit

- (ii) a minimum of 0.12 *parking spaces* per dwelling unit shall be provided on the *lot* for visitors to the building.

The visitor *parking spaces* shall:

- (a) be individually designated by means of clearly visible signs as being for the exclusive use of visitors to the residential portion of the building; and
- (b) be equally available to visitors of all residents of the site; and
- (c) be accessible by driveways or passageways designating the way from the street to the visitors' parking facilities with the route to the visitor *parking spaces* designated by clearly visible signs.
- (iii) pursuant to (i) above, up to 10% of the *parking spaces* required by subsection (i) may be *small car parking spaces*.
- (iv) for each on-site *car-share parking space* provided on the *lot* up to a maximum of 7 *car-share parking spaces*, the minimum resident parking required by (i) above shall be reduced by 5 *parking spaces*. If after not less than a period of 3 years following the date of registration of the last condominium or the date of occupancy of the last rental unit, the car-share operation fails to be sustainable, to the satisfaction of the Chief Planner, such spaces shall revert as follows:
- (a) 51% of any such spaces shall be provided and maintained on the site as a residential visitor *parking space* for the exclusive use of residential visitors to the site and signed as such and equally available to all residents of the site; and
- (b) 49% of any such spaces shall be provided and maintained as a resident *parking space*, for the exclusive use of residents of the site.

2. Parking for non-residential uses, shall be subject to a requirement of 1 *parking space* for each 100 square metres of *non-residential gross floor area*, or fraction thereof.

- (i) notwithstanding the above, places of assembly, concert halls, community centres, performing arts centres will be required to provide parking in accordance with the following requirements:

- (a) 0 *parking spaces* for the first 300 persons as generally accommodated.
 - (b) 1 *parking space* for up to 400 persons generally accommodated by the largest performance or meeting space.
 - (c) 1 *parking space* for each additional 10 persons above 400 persons generally accommodated by the largest performance or meeting space.
- (ii) notwithstanding (i) above, *public art galleries, private art galleries, private museums* and *public museums* will be required to provide and maintain parking in accordance with the following requirements:
- (a) 0 *parking spaces* for the first 350 square metres of *non-residential gross floor area*; and
 - (b) 1 *parking space* per each additional 175 square metres of *non-residential gross floor area* in excess thereof.
3. Notwithstanding 2 above, the building existing on the lot on the day of the passage of this by-law shall be exempt from the requirements of this by-law to provide motor vehicle parking facilities in respect of the use of the building for non-residential purposes, as permitted in an I1 zone in By-law No. 438-86, as amended, provided that the *non-residential gross floor area* of the building does not exceed the *non-residential gross floor area* of the building on the date of the passage of this by-law.

7. BICYCLE PARKING

1. Notwithstanding Section 4(13)(a) of Zoning By-law No. 438-86, as amended:
- (i) the minimum requirement for bicycle parking shall be as described in Section 4(13) but the requirement shall not be capped at 200 *bicycle parking spaces*; and
 - (ii) the bicycle parking spaces shall not be provided in individual storage lockers.

8. HOUSING MIX

1. Any portion of the *lot* containing residential *dwelling units* shall provide:
- (i) a minimum of 20 percent of residential *dwelling units* having 2 or more bedrooms; and
 - (ii) a minimum of 75 per cent of any residential *dwelling units* at the main floor level, excluding *artist live/work studios* to have 2 or more bedrooms.

9. IMPLEMENTATION

1. No person shall erect or use any building or structure on the Lands prior to satisfying the following condition:
 - (i) the owner of the Lands shall enter into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act*, to secure the facilities, services and matters required in Section 11 (1) herein, the said agreement to include provisions relating to indemnity, insurance, GST, termination, unwinding, registration and priority of agreement, and the indexing of any financial contributions and register against the title to the Lands as a first charge.

2. No person shall erect any building or structure on the Lands prior to satisfying the following condition:
 - (i) the owner of the Lands, at its own cost, shall provide a certified cheque for \$450,000 (indexed as of October 1 2008 in accordance with the non-residential building construction price index), prior to the issuance of any building permit, save and except demolition, excavation and shoring, to the City for one or more of the following capital facilities within the vicinity of the site to enhance the *West Queen West Triangle Lands*' role as an arts employment cluster:
 - (a) *affordable artist live/work studios* and/or *affordable artist work studios* for artists owned and operated by the City or by a not-for-profit artspace management organization approved by the Chief Planner in consultation with the Executive Director, Toronto Culture;
 - (b) public art;
 - (c) the renovation and restoration of the Carnegie Library building at 1115 Queen Street West for use as a performing arts hub and community meeting space; and/or
 - (d) development of Lisgar Park;
 - (ii) the owner of the Lands shall convey for nominal consideration prior to the issuance of an above grade permit, and at no cost to the City, any lands within the heavy lines shown on Map 1 that are required for the lane conveyance;
 - (iii) the owner of the Lands shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this site have been built or secured via a letter of credit acceptable to the Executive Director of Technical Services prior to the issuance of a below grade permit.

10. SECTION 37 OF THE PLANNING ACT

1. The owner of the *Lands* at its own expense and in accordance with and subject to the agreement referred to in Section 10 herein shall provide the following facilities, services and matters to the City:
 - (i) Street Tree Irrigation

the owner shall, at its own expense, install and maintain in good working order and operation, an irrigation system for all street trees in the public right-of-way that includes an automatic timer which is designed as being water efficient by a Certified Landscape Irrigation Auditor (CLIA) and is constructed with a back flow preventer to the satisfaction of the City, if required;
 - (ii) the owner shall ensure that the materials on the faces of the mechanical penthouses will complement the architectural features of the building and will be similar in quality and compatible with the materials used on the exterior elevations of the Building, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (iii) the owner shall ensure that roofing materials for 80% of the roof will consist of white, low-emissivity materials or a green roof, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (iv) the owner shall construct, or cause another party to construct, any wind mitigation measures required pursuant to site plan approval, to the satisfaction of the Chief Planner; and
 - (v) the owner shall be required to service the lands outlined in heavy lines on Map 1 attached hereto, including but not limited to, the construction of services for water services, sanitary and storm sewer systems, roads, streetscaping and landscaping, street trees and tree irrigation systems and utilities.
2. Notwithstanding any of the foregoing provisions, the owner of the Lands and the City may modify or amend the said Section 37 agreement from time to time and, upon the consent of the City and the owner, without further amendment to those provisions of this By-law which identify the facilities, services and matters to be secured.

11. USE OF EXISTING BUILDING

1. No provision of this by-law shall prevent the use of an existing building or structure on the lot that existed on the date of the enactment of this by-law for the purposes of any use permitted by Section 2 of this by-law, provided the provisions of Section 2 and 6 of this by-law are complied with.

12. DEFINITIONS

1. Each words or expressions italicized herein shall have the same meanings as such word or expression as defined in By-law No. 438-86, as amended, unless otherwise set out in this By-law. For the purposes of this By-law, the following definitions shall apply:

affordable (moderate-income) shall mean, when used in relation to a *dwelling unit*, that the *dwelling unit* is the subject of an agreement between the City and the owner, registered on title, that the unit will be rented at between 0.8 times and 1.0 times the CMHC average rate for *dwelling units* of similar type for a period no less than 20 years from the date of first occupancy of the unit;

artist live/work studio shall mean a *dwelling unit* containing a studio space for the production of art containing a habitable room or room(s) and which is the subject of an agreement between the City and the owner, registered on title, that it will be rented at no more than 1.0 times the CMHC average rate for dwelling unit of similar size for a period of no less than 20 years from the date of first occupancy of the unit and inhabited only by a working artist and his or her household;

car-share means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a car-share vehicle, a person must meet the membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven and do include use of cars on an hourly basis;

car-share parking space means a *parking space* exclusively reserved and signed for a car used only for *car-share* purposes and such *car-share* is accessible to non-resident car-share members at all times;

grade means the average elevation of the sidewalk along Sudbury Street and Dovercourt Road;

height shall mean, the vertical distance between *grade* and the highest point of the roof or, where there is no roof, the highest point of the structure, as shown on Map 2;

parking space shall mean an unobstructed area, at least 5.9 metres in length and at least 2.6 metres in width which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle, or a *parking space* within a *parking stacker*;

small car parking spaces shall mean a *parking space* having a minimum unobstructed area 2.4 metres wide by 5.0 metres long which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle, except the width of the *parking space* shall be:

- (a) 2.7 metres wide where there is an obstruction on one side of the space; or
- (b) 3.1 metres wide where there are obstructions on both sides of the space.

West Queen West Triangle Lands means the lands delineated by the heavy lines on Map 3 of this By-law.

13. FUTURE SEVERANCE

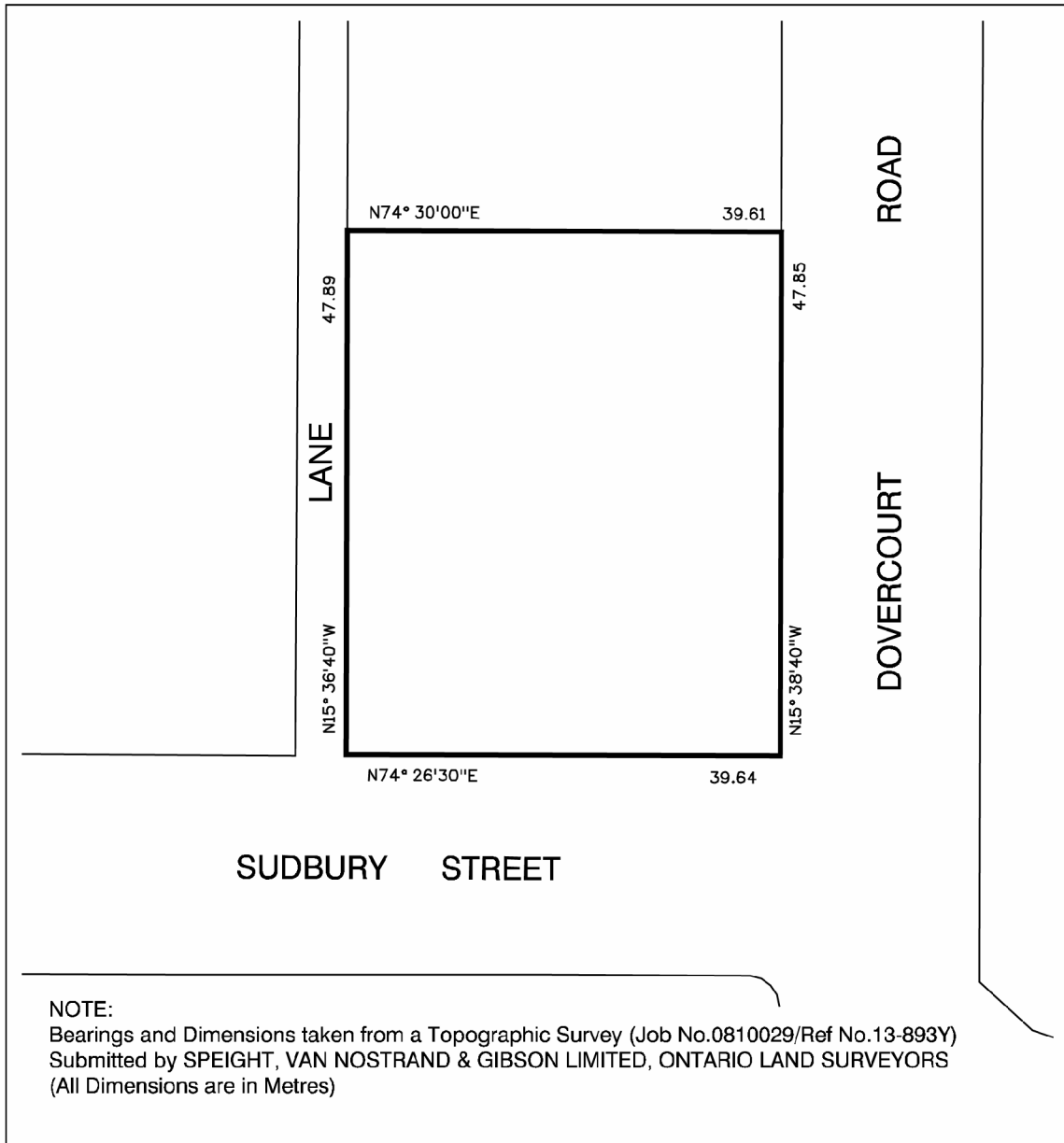
- 1. Despite any existing and future severance, partition or division of the *lot* as shown on Map 1, the provisions of this By-law shall apply to the whole *lot* as if no severance, partition or division occurred.

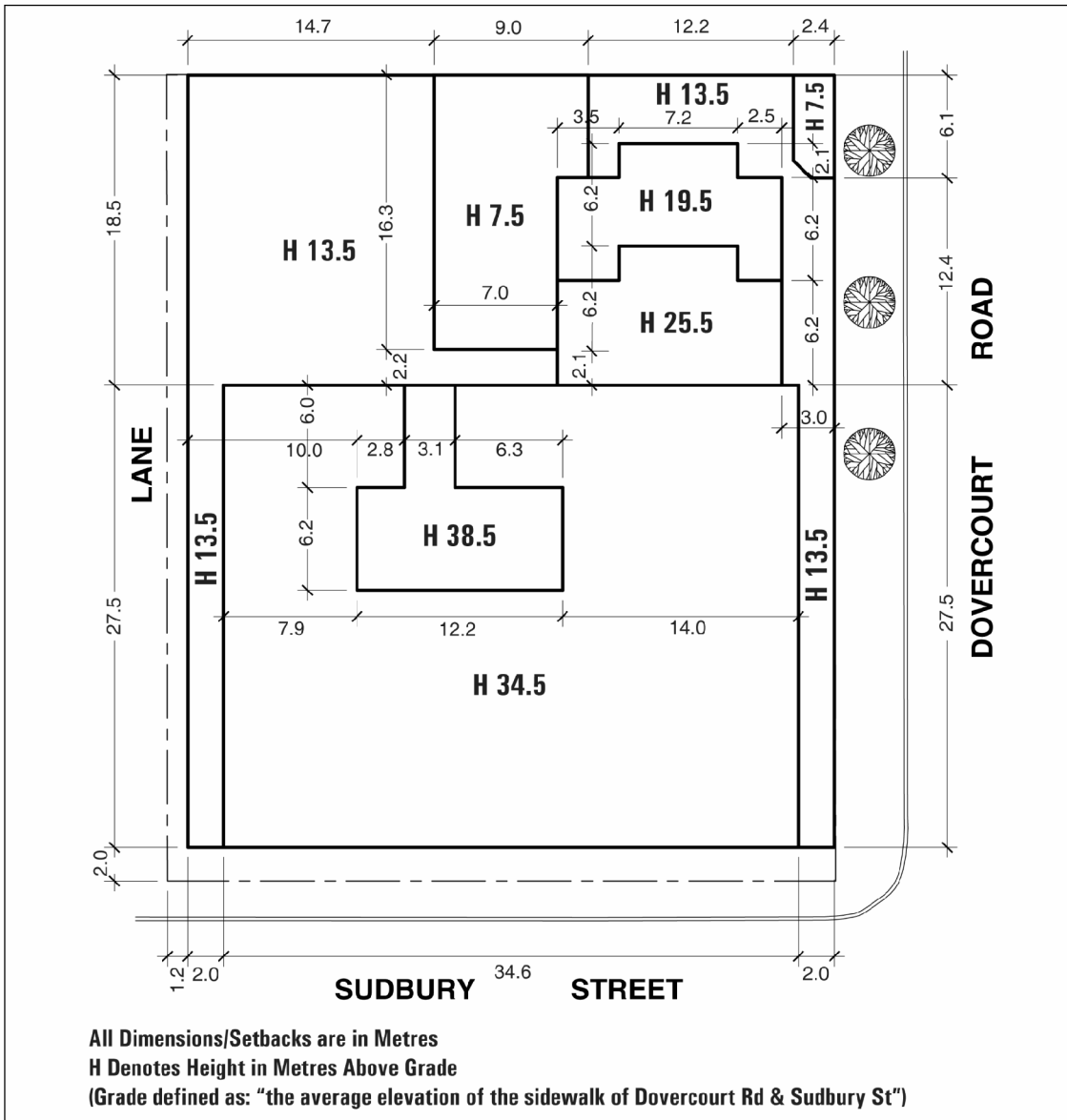
ENACTED AND PASSED this 25th day of February, A.D. 2009.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)





MAP 3

