

CITY OF TORONTO

BY-LAW No. 477-2012(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto respecting lands known municipally as 730 Dovercourt Road and 309, 323 and 357 Rusholme Road.

WHEREAS the Ontario Municipal Board, in its Decision No. 3032 issued on November 17, 2005 and by its Order issued on February 28, 2012 approved an amendment to the General Zoning By-law No. 438-86 of the former City of Toronto respecting lands known municipally as 730 Dovercourt Road and 309, 323 and 357 Rusholme Road;

THEREFORE pursuant to Decision No. 3032 issued on November 17, 2005 and Order issued on February 28, 2012 of the Ontario Municipal Board (Board File No. PL040659):

1. Pursuant to Section 37 of the *Planning Act*, the heights and density of development permitted by this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *site* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *site*, pursuant to Section 37 of the *Planning Act*, securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *site* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of *By-law No. 438-86* and *By-law No. 20623*, as amended by *By-law No. 22620*, each of the former City of Toronto, shall continue to apply to the *site*. For clarity:
 - (a) no provision of *By-law No. 20623*, as amended by *By-law No. 22620*, shall apply to prohibit the erection or use of the *proposed building*, provided that the provisions of this By-law are complied with;
 - (b) no permission granted by this By-law to permit the erection or use of the *proposed building*, shall be interpreted to prohibit the erection or use of any building within the *site* that would otherwise comply with the provisions of *By-law No. 20623*, as amended by *By-law No. 22620*;
 - (c) the 70 % of the *site* required to be provided and maintained as landscaped open space by the provisions of *By-law No. 20623*, as amended by *By-law No. 22620*, may be reduced as required to satisfy the requirement of Section 15 of this By-law that, "no person shall erect or use the *proposed building* unless a minimum of 58% of the area of the *site* is *landscape open space*";
 - (d) Section 1(3) of *By-law No. 22620*, which restricts the *apartment houses* as defined therein to 14% of the area of the lot at grade, shall not apply to prevent the erection and use of the *proposed building*; and

- (e) no building or structure shall be erected or used within any part of *site* other than;
- (i) the *proposed building*; and
- (ii) the *existing buildings*, provided such buildings or structures complied with all then applicable zoning permissions.
4. The *Building D Area* may be used for the erection and use of:
- (a) an *apartment building* and *accessory* uses thereto;
- (b) a below grade *parking garage* provided it is an *accessory* use to the said *apartment building*;
- (c) a driveway to service the said uses and the *existing buildings*.
5. No part of any building or structure shall be erected or used within any part of the *Building D Area*, unless each and every portion of the building or structure, located above finished ground level, is contained entirely within the *Building D building envelope*.
6. Section 5 hereof does not apply to the type of structure listed in the column entitled "STRUCTURE" in the following chart, provided:
- (a) that the restrictions and qualifications set out opposite the structure in the associated columns are complied with; and
- (b) that no part of any such structure shall be located above the *angular plane*;

STRUCTURE	Maximum Permitted Projection	Other Applicable Qualifications
eaves, cornices and parapets	0.45 metres	
fences and safety railings	No restriction	Height of fence or safety railing not to exceed 1.2 metres
chimney breast	Not more than 0.3 metres	Length not to exceed 2 metres
uncovered platform of a residential building that is landscaped open space	Not more than 7.5 metres	(I) height of platform not to exceed 1.2 metres above grade or the height of the main floor of the building, whichever is lower (II) no extension beyond the side walls of the building as projected

Canopy	Not more than 2.5 metres	(I) the <i>apartment building</i> has no more than 4 canopies (II) the aggregate area of all of the canopies combined cannot exceed 0.4 square metres for each 100 square metres of <i>residential gross floor area</i> contained within the <i>apartment building</i>
a bay window	0.75 m	I) width not to exceed three metres measured II) regulations respecting minimum distances between buildings to be measured from the external face of the window or windows
balconies	1.5 m	
ventilator housing for the ventilation of the underground facilities, ramps or stairs (or enclosures thereof) providing access to such facilities (including those associated with the <i>existing buildings</i> and located within the <i>site</i> on November 17, 2005)	No restriction	No restriction

7. In addition to complying with the *angular plane* requirement of the following section, each portion of a building or structure erected within any part of the *Building D Area*, shall, in respect of each *building envelope* area:
- (a) have a maximum *height* in metres, for the corresponding *building envelope* area, as shown following the symbol "H" on Map 2 (and as shown enlarged on Map 2A); and
 - (b) also have the maximum number of storeys, for the corresponding *building envelope* area, where so specified on Map 2 (and as shown enlarged on Map 2A);

- (c) but the preceding subsection (a) shall not apply;
 - (i) to prevent projections of the eaves, cornices and parapets, bay windows or balconies listed in the column entitled "STRUCTURE" in the chart within Section 6 of this By-law, provided that the restrictions and qualifications set out opposite the structure in the associated columns are complied with and provided they remain under the *angular plane*;
 - (ii) to prevent a 1.2 metre vertical projection above the said height limits for a parapet or rail provided it remains under the *angular plane*; or
 - (iii) a structure enclosing the mechanical penthouse for the *proposed building* provided it remains under the *angular plane* and is no higher than 5 metres.
- 8. Notwithstanding any other provision of this By-law, no part of the *proposed building*, or in any event erected or used within any part of the *Building D Area*, shall be higher than or in any way protrude through the *angular plane*.
- 9. The *proposed building* shall provide and maintain *parking spaces* for rental residential uses in accordance with the following minimums:
 - (a) 0.63 parking spaces for each rental *dwelling unit* located within the *apartment building*, of which;
 - (i) 0.5 *parking spaces* shall be provided for occupants; and
 - (ii) 0.12 *parking spaces* shall be provided for visitors; and
 - (b) for clarity, none of the provisions of this By-law shall operate to relieve compliance with the parking standards of *By-law No. 438-86*, as amended or superseded from time to time, for any *dwelling units* not used as residential rental units;
 - (c) for further clarity, any *parking spaces* allocated, for the purpose of meeting the minimum parking requirements of subsection (a) hereof, for the use of the *proposed building*, shall be deemed to not contravene the minimum parking requirements of *By-law No. 438-86* and *By-law No. 20623*, as amended by *By-law No. 22620*, in respect of the *existing buildings*;
 - (d) for further clarity, the parking spaces required for any of the buildings within the *site* may be located anywhere within the below grade *parking garage* that is provided as an *accessory* use to the buildings located within the *site*; and

- (e) for further clarity;
- (i) any *parking spaces* constructed after November 17, 2005 within the *site*, must comply with the regulations applied to the provision of parking spaces by *By-law No. 438-86*; and
 - (ii) any parking spaces used within the *site* but constructed before January 2, 2010 may be used either for;
 - A. the purpose of meeting the minimum parking requirements required for the use of the *proposed building*; or
 - B. for the parking spaces required for any of the *existing buildings*;

provided that they comply with either the regulations applied to the provision of parking spaces by By-law No. 20623, as amended by By-law No. 22620, or the regulations applied to the provision of parking spaces by *By-law No. 438-86*.

10. For clarity, Section 1(8) of By-law No. 22620 shall not apply to the location of motor vehicle ingress and egress for the *proposed building*.

11. The *proposed building* shall provide and maintain *residential amenity space* in accordance with the following table:

<u>Type of Residential Amenity Space Required</u>	<u>Amount of Residential Amenity Space Required</u>
<i>residential amenity space</i> in an indoor multi-purpose room(s), at least one of which contains a kitchen and a washroom and which is located at grade and which is available, free of charge, to all tenants of all <i>dwelling units</i> located within the <i>site</i>	a minimum of 2 square metres of <i>residential amenity space</i> for each <i>dwelling unit</i>
<i>residential amenity space</i> located outdoors (for clarity this outdoor <i>residential amenity area</i> may be located within the <i>landscape open space</i> provided within the <i>site</i>)	a minimum of 2 square metres of <i>residential amenity space</i> for each <i>dwelling unit</i> of which at least 40 square metres is to be provided in a location adjoining or directly accessible from indoor <i>residential amenity space</i>

12. In addition to the *residential amenity space* requirements set out in Section 11 of this By-law, the *proposed building* shall only be permitted provided that not less than 450 square metres of indoor *residential amenity space* shall be provided in *Building B*. Such space may be below grade and is to be available to all the occupants of all *dwelling*

units located within the *site*. For clarity, this Zoning By-law imposes no additional residential amenity space obligations upon the *existing buildings*.

13. All indoor *residential amenity space* provided within the *site*, including the space required to comply with Sections 11 and 12 of this By-law, shall be provided with security features in such a way that tenants from other buildings within the *site* do not have a right of access to other parts of the building in which the space is provided.
14. No person shall erect or use the *proposed building*, unless a minimum of 200 *bicycle parking spaces* are provided and maintained within the *site*, provided in the following proportion: 80% as *bicycle parking spaces – occupant* and 20 % as *bicycle parking spaces - visitor*.
15. No person shall erect or use the *proposed building* unless a minimum of 58% of the area of the *site* is provided as *landscape open space*.
16. For clarity, the existing dwelling house within the *site* and known municipally as 309 Rusholme Road in the year 2006, may be used, altered, converted, enlarged, reconstructed or replaced to accommodate a *dwelling unit(s)* or *dwelling rooms*, provided and only provided that such alteration, conversion, enlargement, reconstruction or replacement is permitted by the provisions of *By-law No. 438-86* and there is no increase to the *residential gross floor area* as contained within the existing dwelling house on November 17, 2005.
17. Despite any existing or future severance, partition, or division of the *site*, the provisions of this By-law shall apply to the whole of the *site* as if no severance, partition or division occurred and for clarity the *site* shall be deemed to be one *lot* for the purposes of:
 - (a) all of the *existing buildings*; and
 - (b) the *proposed building* and *accessory* uses thereto.
18. For clarity, Appendix 1 attached to this By-law is incorporated into this By-law and is deemed to be a part of this By-law.
19. For the purposes of the By-law, the following expressions shall have the following meaning:
 - (a) "*angular plane*" means an angular plane of 43 degrees angling up and westward over the *site* from a point commencing at *grade* and located 17.0 metres to the east of the *site* as shown on Map 2 attached hereto (and as shown enlarged on Map 2A);
 - (b) "*building envelope*" means a building envelope for each height area within the "*Building D Area*", as shown by an "H" and as delineated by the lines on Map 2 attached hereto (and as shown enlarged on Map 2A);

- (c) "*Building B*" means the apartment building located on November 17, 2005, within that part of the *site* delineated by the heavy lines and identified as Building 'B' on Map 2 attached hereto, and known municipally in the year 2005 as 323 Rusholme Road;
- (d) "*Building D Area*" means that part of the *site* delineated by and located within the *Building D building envelope*;
- (e) "*Building D building envelope*" means that part of the *site* delineated by the heavy lines and identified as BUILDING 'D' on Map 2 attached hereto (and as shown enlarged on Map 2A);
- (f) "*By-law No. 438-86*" means By-law No. 438-86, as amended, of the former City of Toronto being, "A By-law to regulate the use of land and the erection, use, bulk, height, spacing and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto";
- (g) "*City*" means the City of Toronto;
- (h) "*existing buildings*" means those buildings and structures existing within the *site* as of November 17, 2005, the locations of which are shown delineated by the heavy lines and identified as Buildings 'A', 'B' and 'C' on Map 2 attached hereto, each being respectively known in the year 2005 as 730 Dovercourt Road, 323 Rusholme Road and 357 Rusholme Road;
- (i) "*grade*" shall mean an elevation of 111.35 m above Canadian Geodetic Datum;
- (j) "*height*" shall mean the vertical distance between *grade* and the highest point of the building or structure;
- (k) "*owner*" means the owner of the fee simple of the *site* or any part thereof;
- (l) "*proposed building*" means any building erected within the *Building D Area* as permitted by and pursuant to Section 4 of this By-law;
- (m) "*site*" means those lands outlined by heavy lines on Map 1 attached hereto, known municipally in the year 2005 as 730 Dovercourt Road and 309, 323 and 357 Rusholme Road; and
- (n) each other word or expression, which is italicized in this by-law, shall have the same meaning as each such word or expression as defined in *By-law No. 438-86*.

APPENDIX 1**SECTION 37 PROVISIONS**

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* of the *site* to the *City* in accordance with an agreement or agreements, pursuant to Section 37(1) of the Planning Act, in a form satisfactory to the *City* with conditions providing for: provision of financial security for all required work prior to the issuance of a building permit for the *proposed building*; completion of all required work prior to the first occupancy of the *proposed building*, unless otherwise specified below; indexed escalation of all financial contributions and monetary valuations of required work from November 17, 2005 to the date of the provision of such financial contributions or the provision of the said work; no credit for development charges; indemnity in respect of all required work and taxes; provision of insurance; termination and unwinding; and registration and priority of agreement:

- (a) The *owner* will have contracted for the installation of new high-speed elevators in the existing buildings, at a cost of not less than \$800,000.
- (b) The *owner* will provide a consolidation of the at-grade garbage storage facilities, with such enclosure visually screened at the sides and from above, of a size to accommodate all the garbage containers normally generated by buildings on the site, at a cost of not less than \$40,000.
- (c) The *owner* will rebuild the garage entrance off Dovercourt.
- (d) Subject to the rights of the tenant of 309 Rusholme Road, the *owner* will eliminate the garage at that location, re-orient that building's private outdoor space, and renovate/improve the building and grounds, at a cost of not less than \$100,000.
- (e) - The *owner* will provide substantial improvements to the landscaping of the entire complex at a cost of not less than \$260,000, such work to be completed within one year of completion of the new building.
- The *owner* will upgrade or otherwise reconstruct the emergency exit stairwells leading from the parking garage to the common outdoor space, in such a way as to prevent access to the stairwells from the surface, and to permit persons on the surface to see whether anyone is in the stairwell, at a total cost of not less than \$50,000.
- (f) The *owner* will renovate and upgrade the rear lobbies of the existing buildings so as to provide a more pleasing access from common amenity space, at a total cost of not less than \$75,000, or such lower amount as the *City* may accept.
- (g) The new building's design and construction will be pursued in consultation with the Better Buildings Division of the *City*, to achieve green infrastructure objectives.

- (h) The *owner* will renovate the required tenant amenity space (the "pool/sauna" area) at 323 Rusholme Road, and will provide furnishings and equipment for all of that indoor amenity space, following consultation with representatives of tenants, at a cost of not less than \$350,000.
- (i) - The new building will be constructed and rented as purpose-built rental housing, with initial rents no higher than 150% of the average rents for the City of Toronto, as reported by Canada Mortgage and Housing Corporation from time to time.
- No application for condominium conversion or demolition of the new building will be made before the year 2013.
- (j) - The *owner* will agree to make no application for rent increases, above the regulated guidelines, in respect of any of the works listed in (a) to (i) above or (k) below.
- As units in the existing buildings become vacant, they will be re-rented with rents no higher than 150% of the average rents for the City of Toronto, as reported by Canada Mortgage and Housing Corporation from time to time.
- No application for condominium conversion or demolition of the existing buildings will be made before the year 2013.
- (k) The *owner* will provide \$40,000 to the City for improvement of park facilities specifically at Dufferin Grove Park.

The *owner* shall also acknowledge that, in its Decision No. 3032 issued on November 17, 2005, the Ontario Municipal Board stated:

"The Board also agrees that the site plan should, in due course, heed the following considerations as agreed by the owner:

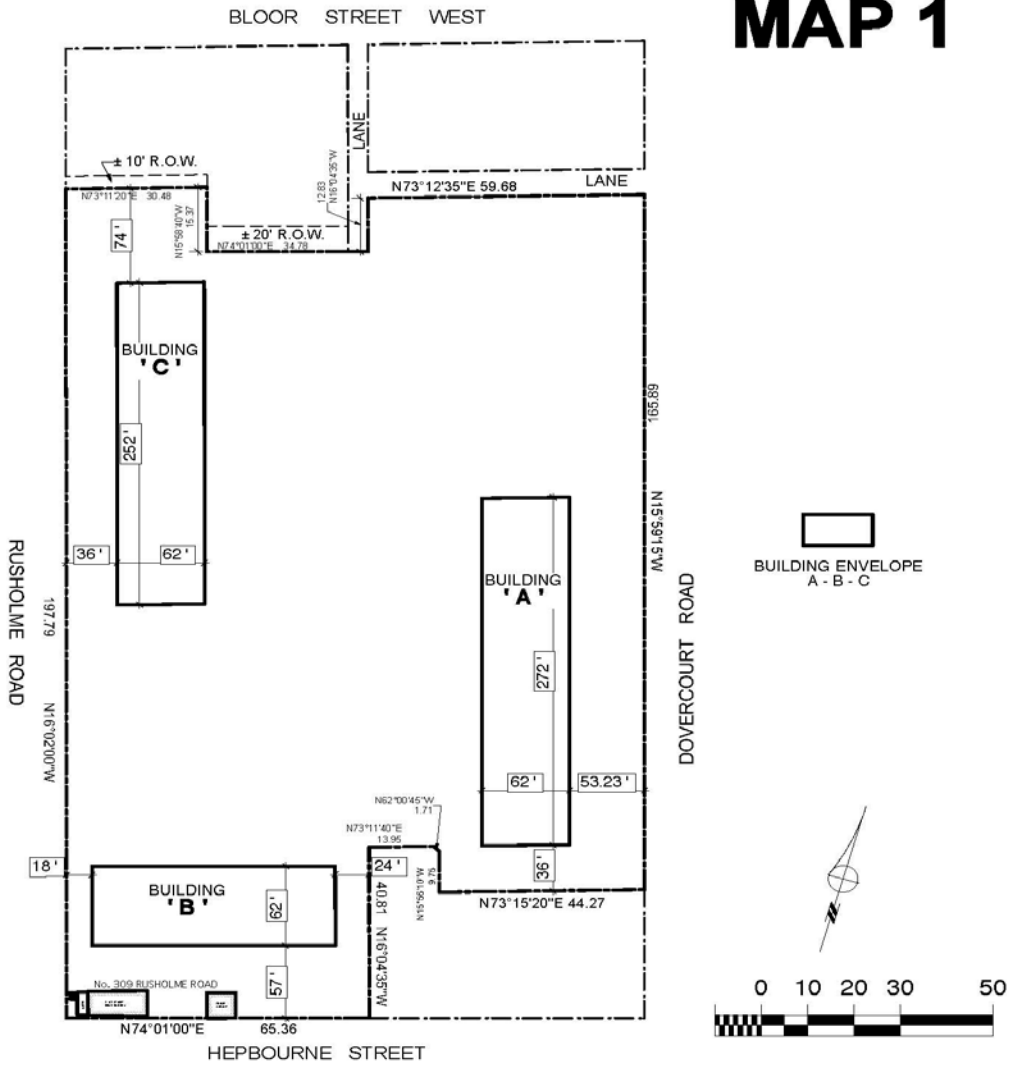
- The owner will provide a tot lot, and consider providing a separate young children's play area, as part of the site plan approval. The location, size, design and equipment of such facilities will be determined as part of the site plan review process, but it is expected that a cost of no less than \$85,000 will be involved. The owner will agree, as part of the section 41 agreement, that the parents and care-givers of children in the neighbourhood may use such facilities, with the owner able to exclude any person at its reasonable discretion.
- The site plan will show walkways traversing the site. The owner will agree, as part of a section 41 agreement that members of the public may use such walkways, with the owner being entitled to exclude any person at its reasonable discretion.
- Out of the total of 200 bicycle parking spaces, the owner will provide at least 40 outdoor bicycle parking spaces for visitors and selected tenants.

- Notwithstanding the primary use of outdoor amenity space for the common benefit of the residents of the complex, the site plan will provide outdoor patio areas of approximately 65 square metres for each of the three existing buildings, furnished in a way suitable for picnics or for charcoal barbecues, such as those located in public parks. These areas will be visually demarcated in a way that will indicate their suitability for use by residents of the adjacent building."

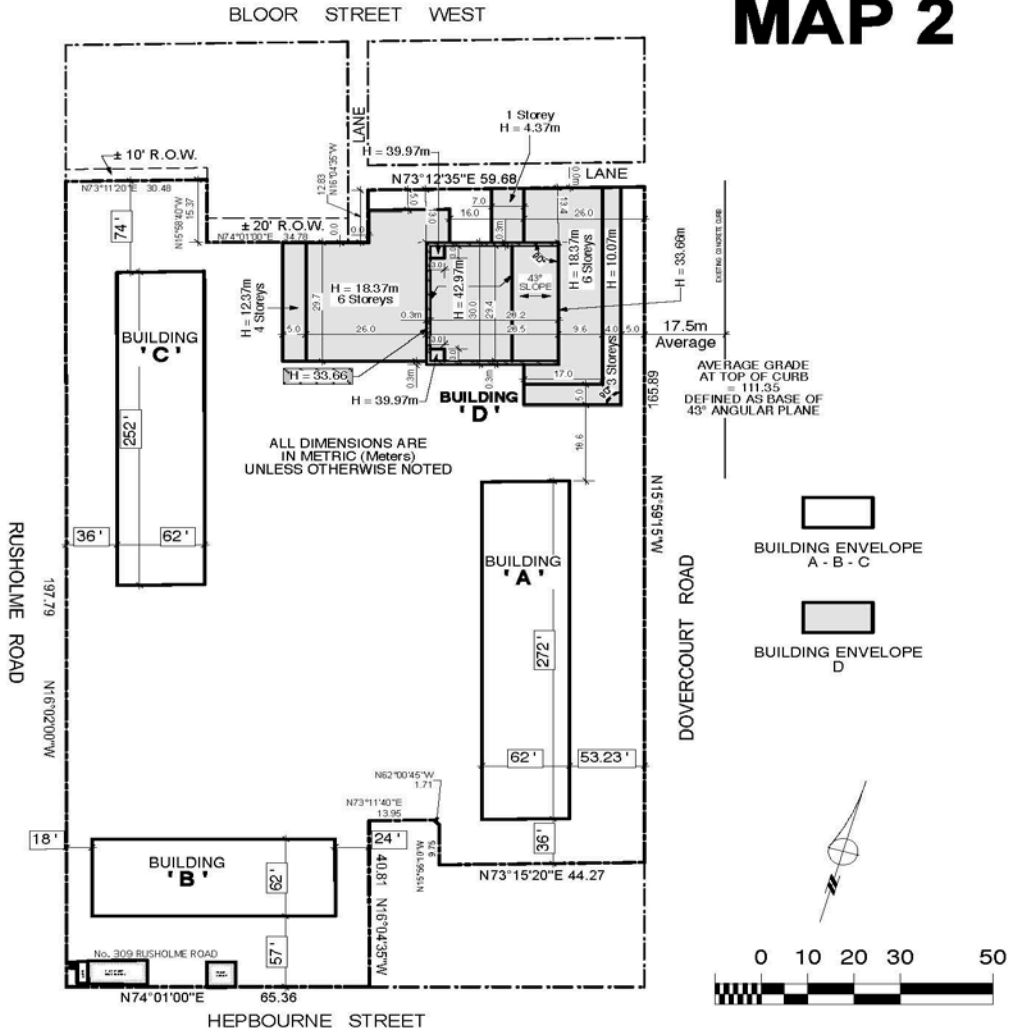
Notwithstanding the foregoing, the *owner* and the *City* may modify or amend the said agreement(s), from time to time and upon the consent of the *City* and the *owner*, without further amendment to those provisions of this zoning by-law which identify the facilities, services and matters to be secured.

PURSUANT TO DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED FEBRUARY 28, 2012 IN BOARD FILE NO. PL040659.

MAP 1



MAP 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

BLOOR STREET WEST

MAP 2A

