

Authority: Ontario Land Tribunal Decision/Order issued on August 15, 2022 (effective August 12, 2022) in Tribunal File OLT-22-003005 (formerly PL190608)

## **CITY OF TORONTO**

### **BY-LAW 235-2023(OLT)**

**To amend the Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2018 as 9 and 25 Dawes Road.**

Whereas the Ontario Land Tribunal, in its Decision issued on December 24, 2021, and its Order issued on June 27, 2022, in File PL PL190608, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2018 as 9 and 25 Dawes Road; and

Whereas pursuant to Section 39 of the Planning Act, as amended, a by-law passed under Section 34 of the Planning Act, may authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and 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 and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal, by Order, amends Zoning By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.

2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Zoning By-law Map in Section 990.10 and applying the following zone label to these lands: CR 3.0 (c2.0; r2.5) SS2 (x767) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Policy Areas Overlay Map in Article 995.10.1 and applying no value, as shown on Diagram 3 attached to this By-law.
5. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Height Overlay Map in Article 995.20.1 and applying the following height label to these lands: HT 12.0, as shown on Diagram 4 attached to this By-law.
6. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Lot Coverage Overlay Map in Article 995.30.1 and applying no value, as shown on Diagram 5 attached to this By-law.
7. Zoning By-law 569-2013, as amended, is further amended by adding the lands subject to this By-law to the Rooming House Overlay Map in Article 995.40.1 and applying no value, as shown on Diagram 6 attached to this By-law.
8. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number 767, so that it reads:

(767) Exception CR 767

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 9 and 25 Dawes Road, if the requirements of By-law 235-2023(OLT) and Section 11 and Schedule A are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (W) below:
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 130.74 metres and the elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulation 40.10.40.10(2) the permitted maximum height of a **building** or **structure** is the number in metres following the letters "HT" as shown on Diagram 7 of By-law 235-2023(OLT);

- (D) Despite Regulations 40.5.40.10(3) to 40.5.40.10(8) and (C) above, the following equipment and **structures** may project beyond the permitted maximum height shown on Diagram 7 of By-law 235-2023(OLT) as follows:
- (i) equipment used for the functional operation of the **building** including but not limited to electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, vents, elevator machine rooms and cooling towers, by a maximum of 5.0 metres;
  - (ii) **structures** that enclose, screen or cover the equipment, **structures** and parts of a **building** listed in (i) above, inclusive of a mechanical penthouse, by a maximum of 5.0 metres;
  - (iii) lightning rods, lighting features, architectural features, parapets, and elements and **structures** associated with a **green roof**, by a maximum of 5.0 metres;
  - (iv) elements associated with green energy and renewable energy facilities, by a maximum of 5.0 metres;
  - (v) **building** maintenance units and window washing equipment, by a maximum of 5.0 metres;
  - (vi) planters, **landscaping** features, guard rails, and divider screens on a balcony and/or terrace, by a maximum of 5.0 metres;
  - (vii) trellises, pergolas, and unenclosed **structures** providing safety, wind or noise protection to rooftop **amenity space** or open air recreation, and vestibules providing access to outdoor **amenity space** or the residential lobby by a maximum of 4.5 metres; and
  - (viii) outdoor furniture, bollards and wheelchair ramps by a maximum of 2.0 metres;
- (E) Despite Regulation 40.10.40.40.(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is 46,045 square metres, of which:
- (i) the permitted maximum **gross floor area** for residential uses is 44,527 square metres;
  - (ii) the permitted maximum **gross floor area** for non-residential uses is 1,518 square metres;
- (F) In addition to the elements listed in Regulation 40.5.40.40(3), the **gross floor area** of a **mixed use building** may also be reduced by the area used for **parking spaces, drive aisles** and storage rooms above ground;

- (G) Of the total number of **dwelling units** provided on the **lot**:
- (i) a minimum of 15 percent of the total number of **dwelling units** must be two-bedroom **dwelling units**;
  - (ii) a minimum of 10 percent of the total number of **dwelling units** must be three-bedroom **dwelling units** or larger;
  - (iii) any **dwelling units** with three or more bedrooms provided to satisfy (ii) above are not included in the provision required by (i) above; and
  - (iv) if the calculation of the number of required **dwelling units** with two or three bedrooms results in a number with a fraction, the number shall be rounded down to the nearest whole number;
- (H) Despite Regulation 40.10.40.50(1), **amenity space** must be provided on the **lot** at the following minimum rates:
- (i) at least 1.5 square metres for each **dwelling unit** of indoor **amenity space**;
  - (ii) at least 1.5 square metres for each **dwelling unit** of outdoor **amenity space** of which at least 40 square metres must be in a location adjoining or directly accessible to indoor **amenity space**;
  - (iii) at least 4.0 square metres for each **dwelling unit** of combined indoor and outdoor **amenity space**; and
  - (iv) no more than 25 percent of the outdoor component may be a green roof;
- (I) Despite Regulations 40.5.40.70(1) and 40.10.40.70(2), the required minimum **building setbacks** are shown in metres on Diagram 7 of By-law 235-2023(OLT);
- (J) Despite Regulation 40.10.40.80(2), the required separation of **main walls** are as shown in metres on Diagram 7 of By-law 235-2023(OLT);
- (K) Despite Regulations 40.5.40.60(1), Clause 40.10.40.60 and Regulations (I) and (J) above, the following elements may encroach into a required minimum **building setbacks** and **main wall** separation distance as follows:
- (i) balconies, by a maximum of 2.0 metres;
  - (ii) canopies and awnings, by a maximum of 3.0 metres;
  - (iii) lighting fixtures, safety guards and architectural features, such as a pilaster, balustrade, decorative column, cornice, sill, belt course, or chimney breast, by a maximum of 1.5 metres;

- (iv) window projections, including bay windows and box windows, by a maximum of 1.5 metres;
  - (v) eaves, by a maximum of 1.5 metres; and
  - (vi) **structures**, elements and enclosures permitted by Regulation (D) above;
- (L) Despite Regulation 200.5.10.1(1), and Table 200.5.10(1), **parking spaces** must be provided in accordance with the following:
- (i) a minimum of 0.20 residential occupant **parking spaces** for each **dwelling unit**;
  - (ii) a minimum of 0.06 residential visitor and non-residential **parking spaces** for each **dwelling unit**;
  - (iii) **parking spaces** required by Regulation (L)(ii) above may be provided on a non-exclusive basis and in a **public parking** facility; and
  - (iv) a maximum of 27 **parking spaces** may be provided at grade;
- (M) A "privately-owned publicly accessible open space" with a minimum area of 420 square metres must be provided within the area shown on Diagram 7 of By-law 235-2023(OLT);
- (N) Despite (L) above, for each "car-share parking space" provided, and up to a maximum of 2 "car-share parking spaces" in total, the minimum required number of residential occupant **parking spaces** required by (L) above may be reduced by four **parking spaces**, subject to the following:
- (i) "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short-term rental, including hourly rental; and
  - (ii) a "car-share parking space" means a **parking space** exclusively reserved and signed for a **vehicle** used only for "car-share" purposes;
- (O) Despite Regulations 200.15.1(1) and (3) an accessible **parking space** must comply with the following:
- (i) a minimum length of 5.6 metres;
  - (ii) a minimum width of 3.4 metres;
  - (iii) a minimum vertical clearance of 2.1 metres; and

- (iv) the entire length of an accessible parking space must be adjacent to a 1.5 metre wide accessible barrier free aisle or path;
- (P) Despite Regulation 200.15.1(4), an accessible **parking space** may be located within 13.0 metres of an entrance to an elevator lobby with one or more passenger elevator(s) that provide access to the first **storey** of the **building**;
- (Q) Despite Regulation 200.15.10, a minimum of 8.0 of the required **parking spaces** must be accessible **parking spaces** and must be provided in accordance with the following:
  - (i) a minimum of 6.0 of the required residential occupant **parking spaces** must be accessible **parking spaces**; and
  - (ii) a minimum of 2.0 of either the residential visitor or non-residential **parking spaces** must be accessible **parking spaces**;
- (R) Despite Regulation 230.5.1.10(10), "short-term" **bicycle parking spaces** may be located in a **stacked bicycle parking space** arrangement;
- (S) Despite Regulation 230.5.1.10(4), a **stacked bicycle parking space** may have a minimum width of 0.45 metres;
- (T) Regulation 200.5.1.10(12)(C), with respect to the distance of a **vehicle** entrance or exit to a **building** from a **lot line** abutting a **street**, does not apply;
- (U) Regulation 230.5.1.10(9)(A)(iii), with respect to the location of "long-term" **bicycle parking spaces**, does not apply;
- (V) Despite Regulation 230.5.10.1(1) and Table 230.5.10.1(1), no "short-term" or "long-term" **bicycle parking spaces** are required for non-residential uses; and
- (W) Regulation 230.40.1.20(2), with respect to the location of "short-term" **bicycle parking spaces** from a pedestrian entrance to a **building** on the **lot**, does not apply;

Prevailing By-law and Prevailing Sections: (None Apply)

- 9. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 10. Temporary Uses:
  - (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection or use of a temporary sales, leasing or construction office on the **lot** for a period of not more than three years from the date this By-law comes into full force and effect.

**11. Section 37 Requirements:**

- (A) Pursuant to Section 37 of the Planning Act, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this By-law as secured by and subject to one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule A attached to this by-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Ontario Land Tribunal Decision /Order issued on August 15, 2022 (effective August 12, 2022) in Tribunal File OLT-22-003005 (formerly PL190608).

**SCHEDULE A**  
**Section 37 Requirements**

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law as secured in, and subject to, an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

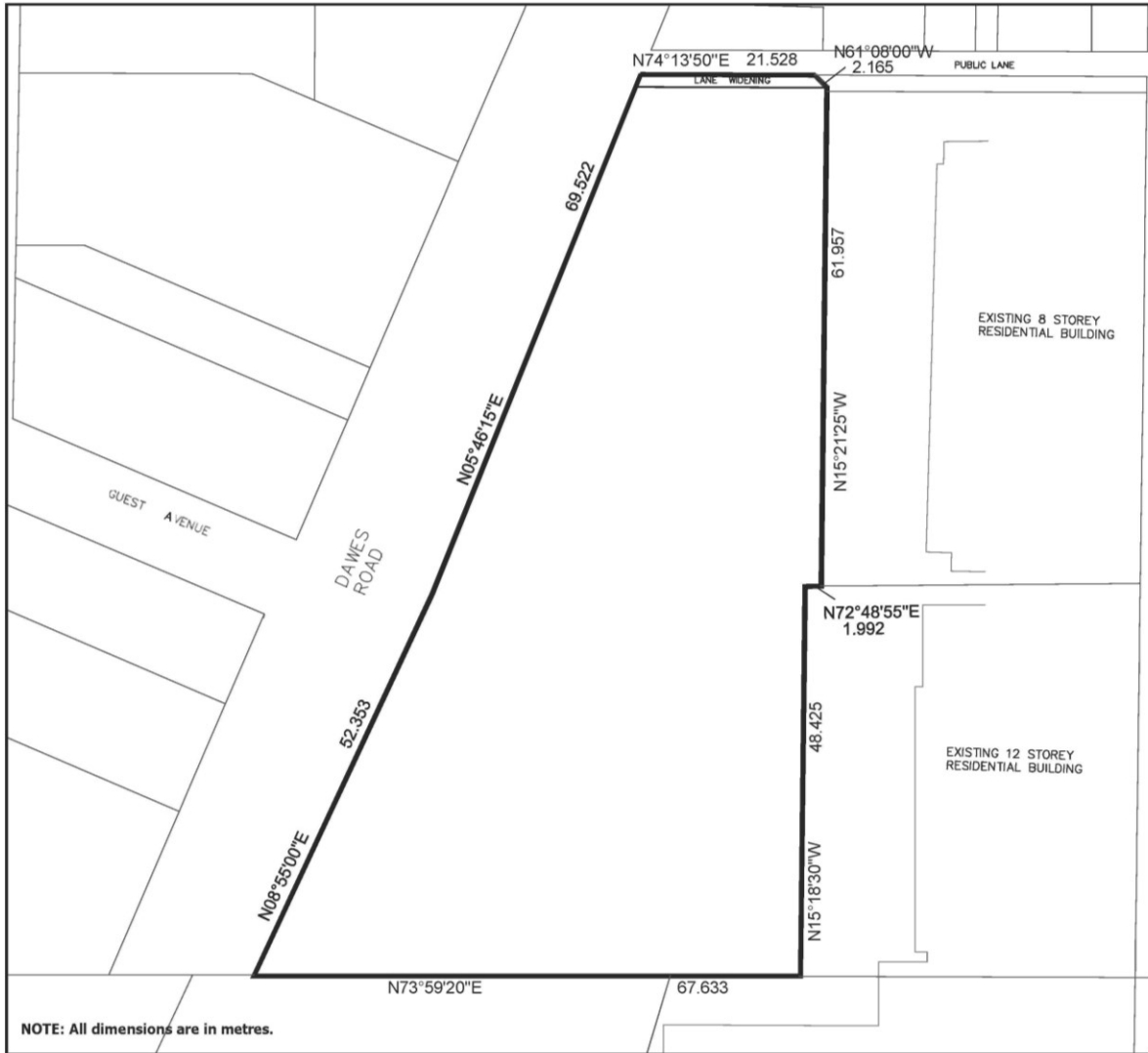
1. Prior to issuance of the first above-grade building permit, the owner shall make a cash contribution to the City in the amount of:
  - (a) four million five hundred thousand \$4,500,000.00 (the "Cash Contribution") to be used for the construction, finishes and/or furnishings and equipment for a public community recreation centre serving the geographic area of the proposed Official Plan Amendment 478, as adopted by Council.
  - (b) \$66,667.00 toward a streetscape improvements study for Main Street in proximity to the lot, which will include the intersections of Main Street and Danforth Avenue and Main Street and Gerrard Street;
2. The cash contributions outlined above must be indexed upwardly from the date of the Section 37 Agreement is entered into to the date the payment is made in accordance with the non-residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor;
3. In the event the cash contribution outlined above has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is/are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
4. The other matters secured in the Section 37 Agreement as a legal convenience to support the development are as follows:
  - (A) The owner shall convey to the City an at-grade easement, generally as set out in the Drawings, with an area of at least 420 square metres inclusive of any area which is beneath a building overhang, to the satisfaction of the Chief Planner as determined in and through the site plan approval process;
  - (B) The owner shall satisfy its obligation for parkland dedication under the Planning Act by the payment of cash in lieu, calculated and paid in accordance with, the City's parkland dedication by-law in force at the time of Council's acceptance of this offer;

- (C) the owner's access to the City streets at no cost, except for the City's standard fee for a road occupancy permit, to undertake any servicing required for its development, in accordance with the City's standard terms;
- (D) where the Owner is undertaking servicing works which benefit other properties, the City will authorize a development charge credit to the Owner in an amount equal to the cost of the improvements that are in excess of the improvements necessitated by and attributable to the Development, but not to exceed:
  - (i) the actual cost of the work that is in excess of the improvements necessitated by and attributable to the Development, and
  - (ii) the water, sanitary sewer, and storm water management components of the development charges applicable to the Development;
- (E) the construction and maintenance of the development in accordance with the Tier 1 performance measures of the Toronto Green Standard as is in place at the time of the owner's application for site plan approval;
- (F) prior to site plan approval, the owners shall convey a 1.48-metre wide conveyance along the south limit of the east-west public lane along the north frontage of the site, to the satisfaction of the General Manager, Transportation Services and the City Solicitor;
- (G) prior to site plan approval, the owner shall provide the following reports, at its sole expense, to be considered and recommendations implemented as appropriate in and through the site plan approval process:
  - (i) the peer review of the submitted Environmental Noise and Vibration Assessment Report, at the owner's sole expense, to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - (ii) a Wind Tunnel analysis to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - (iii) a conceptual landscape plan which includes a notation that a volume of 30 cubic metres of soil will be provided for each tree, unless otherwise agreed by the General Manager, Urban Forestry;
- (H) prior to site plan approval:
  - (i) a Master Functional Servicing Report for certain lands adjacent to Dawes Road and identified as Character Area C in OPA 478 , which lands include the site, ("MFSR") will be submitted to the satisfaction of the Chief Engineer; or

- (ii) in the alternative, the servicing matters which are the subject of the MFSR shall be addressed as they apply to the development, all to the satisfaction of the Chief Engineer.
  
- (I) prior to issuance of any building permit for the development, the Owner shall submit a revised Functional Servicing and Stormwater Management Report, Hydrogeological Report and supporting documents specific to the development of the lands, including confirmation of water and fire flow, sanitary and storm capacity to the satisfaction of the Chief Engineer in consultation with the General Manager, Toronto Water.
  
- (J) The Owner shall design, construct and render operational, at no cost to the City, improvements to municipal infrastructure identified in the MFSR, revised Functional Servicing, Stormwater Management Report, and Hydrogeological Report, required to support the development, if any, to the satisfaction of the Chief Engineer. The timing for the completion of any such improvements, if required, will be determined in and through the site plan approval process for the development, and secured by way of agreement(s) with the City, and the improvements may be completed on a phased basis, to the satisfaction of the Chief Engineer.
  
- (K) The Owner shall provide financial securities for any upgrades and/or required improvements to the municipal infrastructure in connection with the accepted MFSR, revised Functional Servicing and Stormwater Management Report, and Hydrogeological Report, to the satisfaction of the Chief Engineer, should it be determined that improvements or upgrades to such infrastructure are required to support the development.
  
- (L) as a condition of site plan approval, address the requirements of the TDSB regarding warning clauses and signage with respect to school accommodation issues, to the satisfaction of the Chief Planner;
  
- (M) in and through the site plan approval process, address the requirements of the Toronto Transit Commission/Metrolinx regarding warning clauses and other requirements to the satisfaction of the Chief Planner; and
  
- (N) prior to the commencement of any excavation and shoring work, the owner shall submit a Construction Management Plan to the satisfaction of the Chief Building Official and Executive Director, Toronto Building, the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Engineer and Executive Director, Engineering and Construction Services and thereafter shall implement the plan during the course of construction; the Construction Management Plan will include, but not be limited to the following construction-related details: noise, dust, size and location of staging areas, location and function of gates, dates of significant concrete pouring, lighting details, vehicular parking and queuing locations, street closures, parking and laneway uses and access, refuse storage, site security, site supervisor contact information, and a communication strategy with the surrounding community,

including matters related to the construction of streets or infrastructure, and any other matters requested by the Chief Planner and Executive Director, City Planning, and the City Solicitor.

**Diagram 1**



NOTE: All dimensions are in metres.



**9-25 Dawes Road, Toronto**

**Diagram 1**

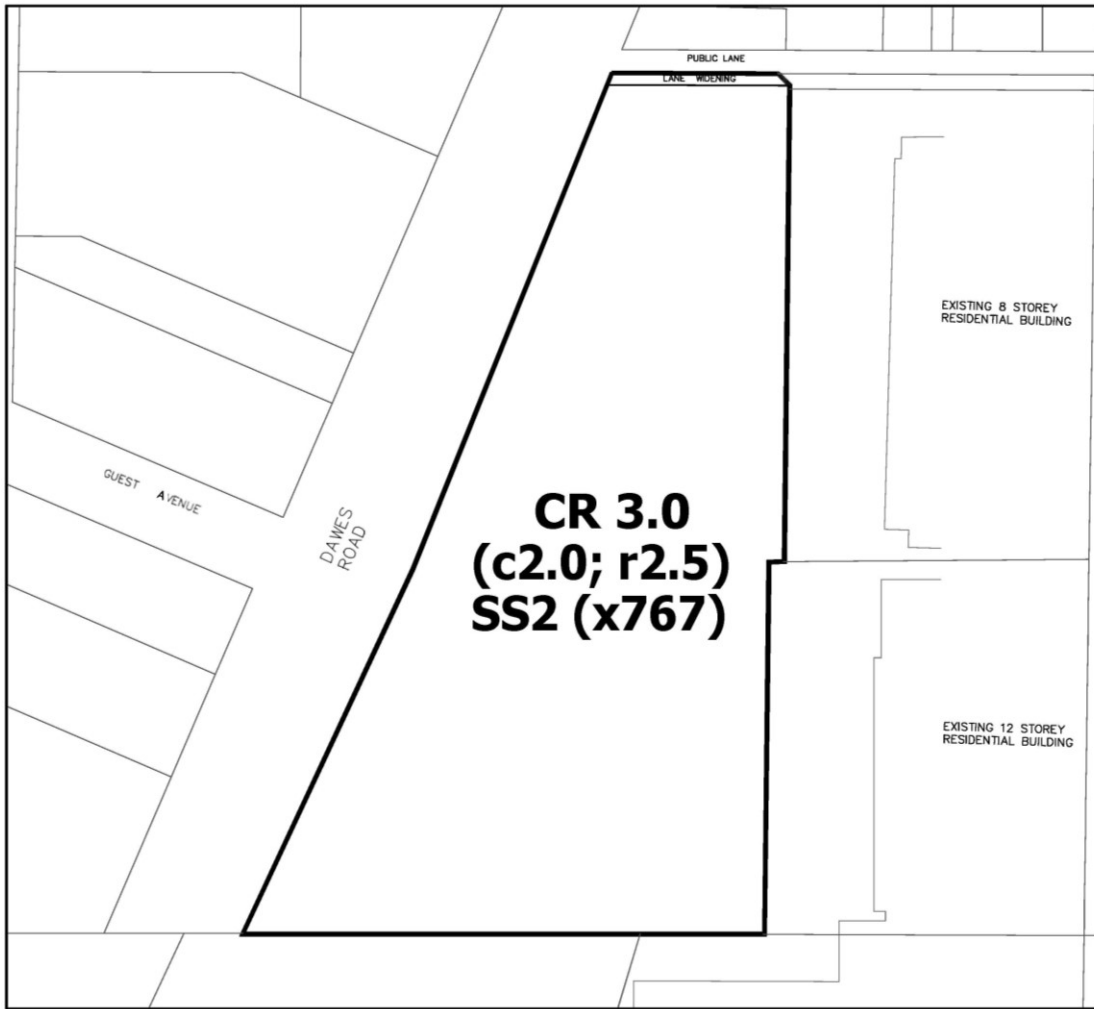
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City of Toronto By-law 569-2013

**Diagram 2**



**9-25 Dawes Road, Toronto**

**Diagram 2**

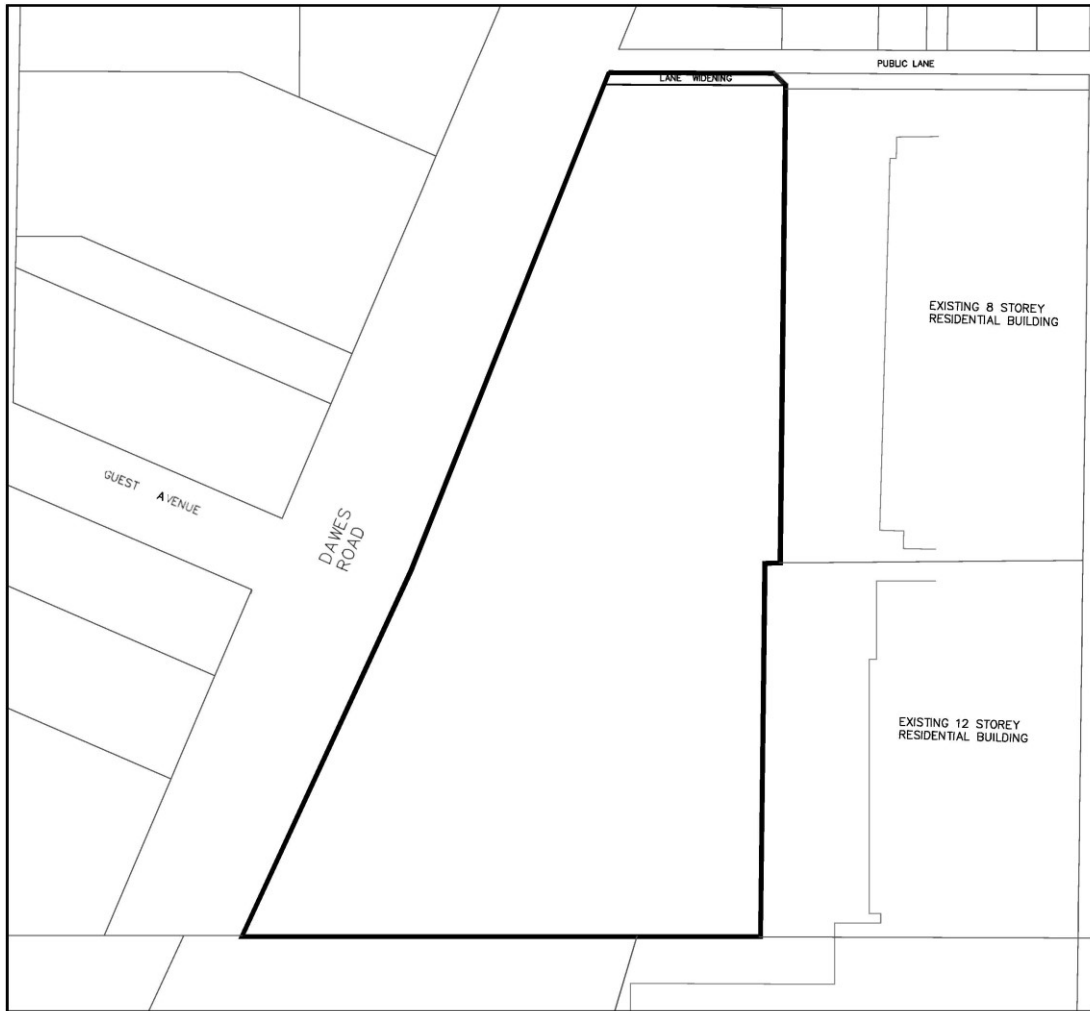
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City of Toronto By-law 569-2013

**Diagram 3**



**9-25 Dawes Road, Toronto**

**Diagram 3 - Policy Area Overlay Map**

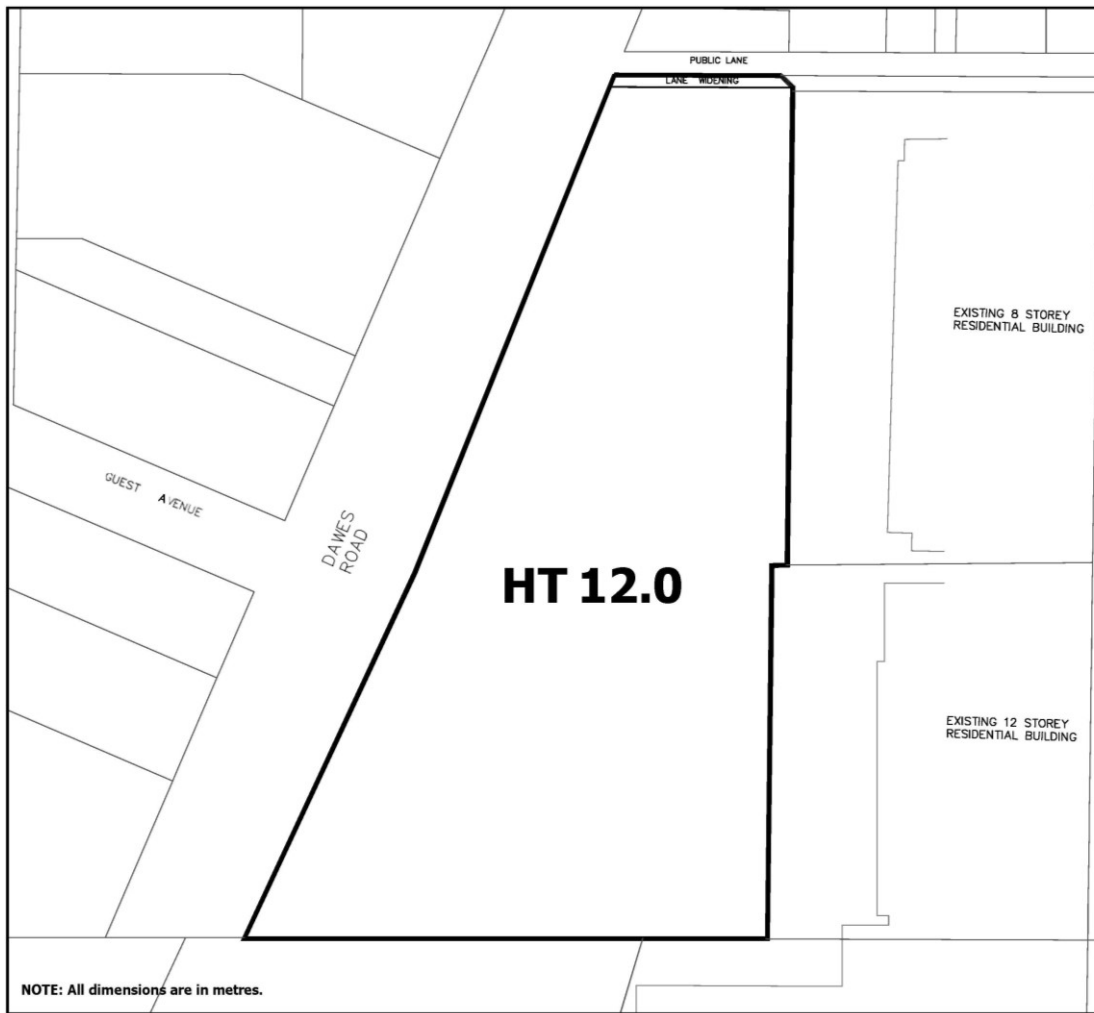
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City of Toronto By-law 569-2013

**Diagram 4**



**TORONTO** City Planning Division

**9-25 Dawes Road, Toronto**

**Diagram 4**

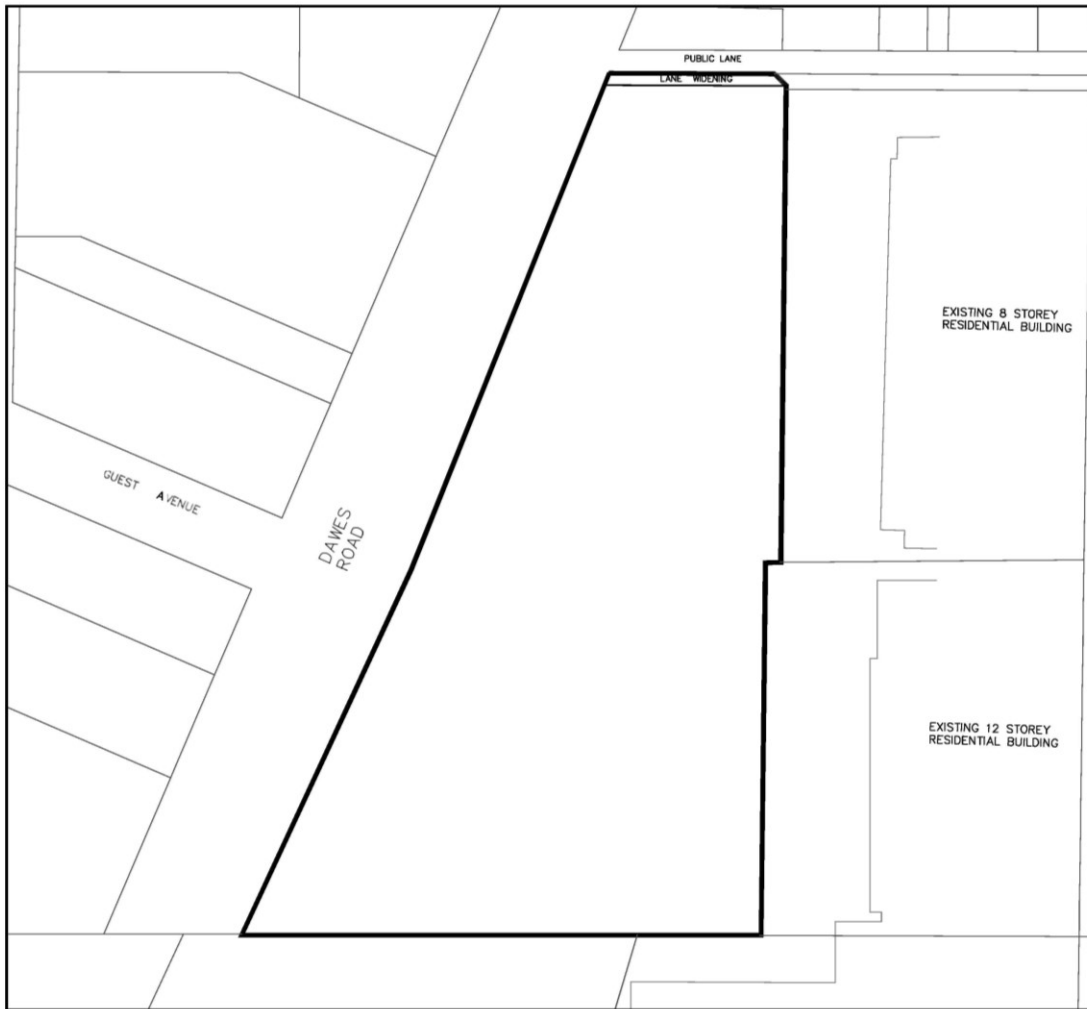
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City of Toronto By-law 569-2013

**Diagram 5**



**9-25 Dawes Road, Toronto**

**Diagram 5 - Lot Coverage Overlay Map**

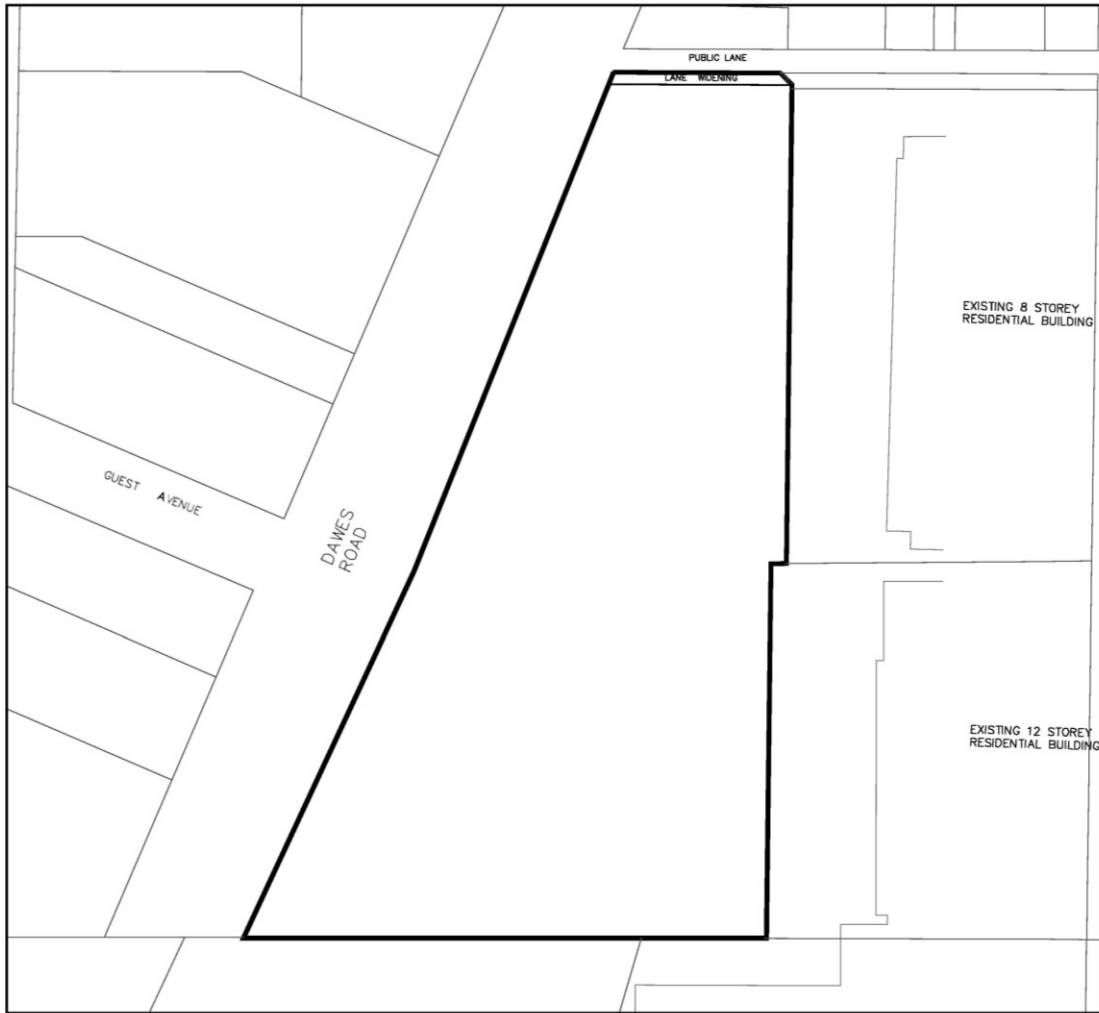
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City of Toronto By-law 569-2013

**Diagram 6**



**9-25 Daves Road, Toronto**

**Diagram 6 - Rooming House Overlay Map**

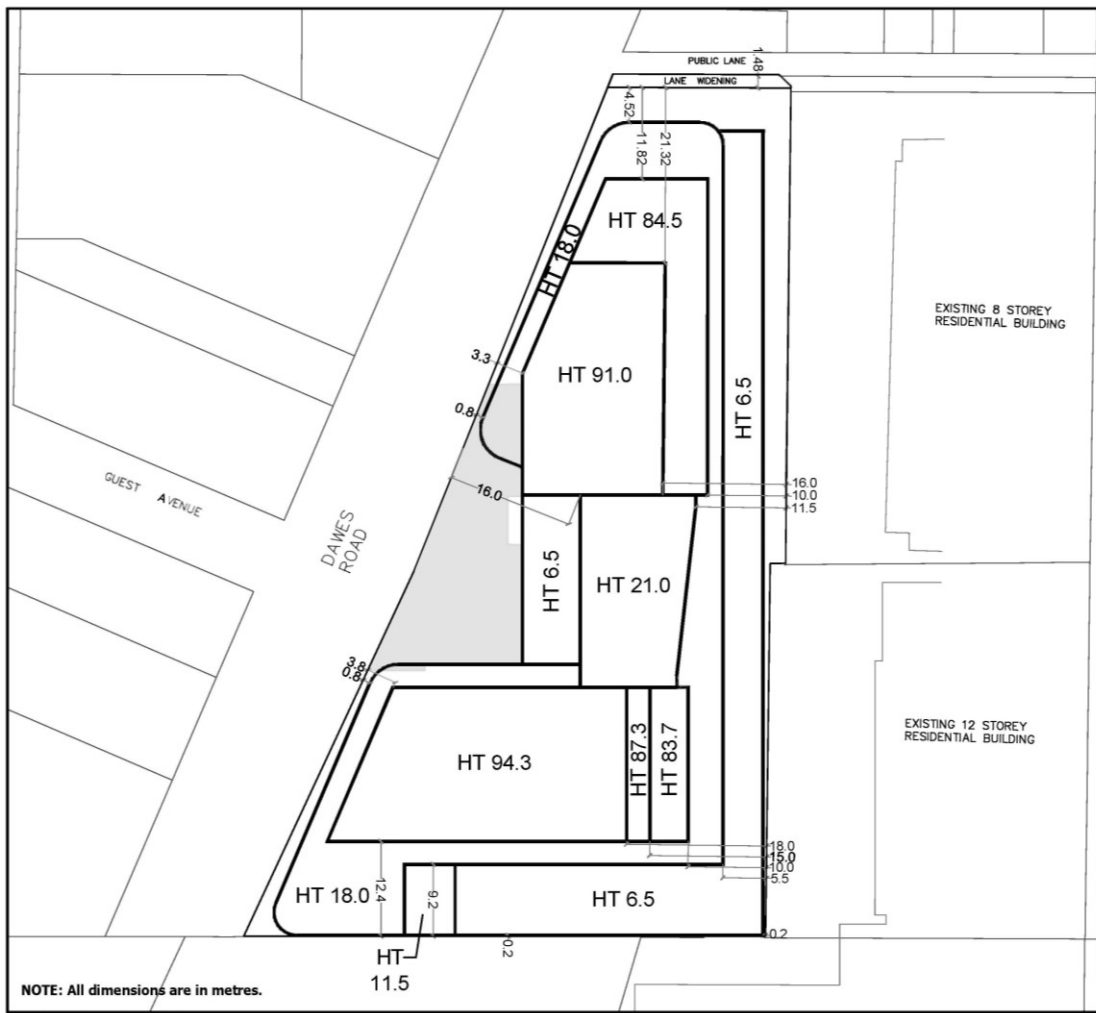
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City of Toronto By-law 569-2013

Diagram 7



9-25 Dawes Road, Toronto

Diagram 7

File #19 186473 STE 19 OZ

Privately-owned publicly accessible open space at ground level

Not to Scale



City of Toronto By-law 569-2013