

**CITY OF TORONTO**

**BY-LAW No. 1178-2008(OMB)**

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 1171 Queen Street West.**

WHEREAS the Ontario Municipal Board, by way of its Orders issued on January 8, 2008, September 24, 2008 and October 29, 2008, determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands municipally known in the year 2007 as 1171 Queen Street West; and

WHEREAS authority is given to the Ontario Municipal Board under Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended; 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 1171 Queen Street West (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; and

THEREFORE the Ontario Municipal Board orders that By-law No. 438-86, as amended, of the former City of Toronto, is amended as follows:

1. Amending Appendix A, Map 49G-321 to rezone lands shown within the heavy lines on Map 1 of this exception from MCR T 3.0 C 1.0 R 2.5 and I1 D3 to RA as shown on Map 1 of this exception.

2. Adding the following exception to 12 (2):

On the lands outlined by heavy lines and identified as 1171 Queen Street West on Map 1 to this section, no person shall use any land or erect or use any building or structure that does not comply with the following:

(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. The following definitions in Section 2 of Zoning By-law No. 438-86, as amended, shall be replaced by the definitions in Section 14 of this exception:

- (i) *artist live/work studio*;
- (ii) *grade*;
- (iii) *height*;
- (iv) *parking space*;
- (v) *residential amenity space*; and
- (vi) *street-related retail and service uses*.

(2) **PERMITTED USES**

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 subsection (c) below and accessory uses thereto are permitted on the *lot* and only on lands zoned RA, subject to the following qualifications:

- (a) A use is permitted by the chart below when the letter “P” is set in the line opposite the use.
- (b) 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.

- (c) 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.".

(a)	RESIDENTIAL USES	Acc.	RA
(i)	<b>HOUSING COMPRISING DWELLING UNITS</b>		
	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)	<b>SHARED HOUSING CONTAINING DWELLING ROOMS</b>		
	Any of the uses permitted in a RA district in section 7(1)(f)(a)(ii)	*	Q1, Q7, Q8
(iii)	<b>ASSOCIATED / ACCESSORY RESIDENTIAL USES</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(a)(iii)	*	Q1
(b)	<b>NON-RESIDENTIAL USES</b>		
(i)	<b>PARKS, RECREATION, PLACES OF AMUSEMENT AND ASSEMBLY</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(i) except: A. arena, stadium, racetrack are not permitted; and B. <i>club</i> is not permitted	*	Q2
(ii)	<b>COMMUNITY SERVICES, CULTURAL AND ARTS FACILITIES</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(ii)	*	Q4
(iii)	<b>GENERAL INSTITUTIONS</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iii)	*	P
(iv)	<b>RETAIL AND SERVICE SHOPS</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iv) except A. <i>entertainment facility</i> is not permitted		Q2, Q3, Q9
(v)	<b>WORKSHOPS AND STUDIOS</b>		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(v)	*	P
(vi)	<b>OFFICES</b>		
	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
		<i>Cold storage plant</i>		P
		<i>Storage warehouse, class A</i>		P
		<i>Wholesaling establishment – general</i>		P
	(ix)	INDUSTRIAL WORKSHOPS		
		<i>Bookbinder’s shop</i>		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
		<i>Brewery</i>		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

Qualifications to be complied with before certain uses are permitted within the Reinvestment Area (RA) District:

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;
    - (c) outdoor areas designated within *publicly accessible landscaped open space* south of the *mews* as indicated on Map 3;
    - (d) any area designed on Map 3 as "Unencumbered Right-of-Way (ROW) for Pedestrian Access"; or
    - (e) 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:
  - (i) the frontage of any one *retail store or showroom* establishment abutting Queen Street West west of the pedestrian opening indicated on Map 3 or abutting the *mews* is limited to no more than 15 metres;

- (ii) the total *non-residential gross floor area* of any one *retail store* or *showroom* is limited to no more than 1800 square metres; and
  - (iii) notwithstanding (ii) above, the total *non-residential gross floor area* of any one *retail store* or *showroom* abutting Queen Street West or the *mews* is limited to no more than 465 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 1320 square metres 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 exception 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 exception:
    - (a) uses listed in the chart in Section 2(c)(b)(vii) of this exception under the heading “Automobile-Related Uses”;
    - (b) park;
    - (c) *public park*;

- (d) *public playground;*
  - (e) *open air market;*
  - (f) *market gardening;*
  - (g) *bicycle parking spaces;* and
  - (h) *parking spaces.*
- (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) USES AT GRADE**

1. No person shall erect or use a building or structure fronting onto the *mews* or Queen Street West for any purpose unless:
- (i) *street related retail and service uses* are provided;
  - (ii) at least 40 percent of the aggregate width of any building facades facing onto the *mews* is used for *street-related retail and service uses* and/or for the purpose of an *artist's or photographer's studio, custom workshop, performing arts studio, public art gallery or commercial school* at the main floor level of the building;
  - (iii) at least 70 percent of the aggregate width of any building facades facing onto Queen Street West is used for *street-related retail and service uses* at the main floor level of the building;
  - (iv) the frontage of any single establishment located either:
    - (a) abutting Queen Street West and located west of the pedestrian opening required by paragraph 7 of this exception; or
    - (b) abutting the *mews*;

and which is used for *street related retail and service uses* is limited to no more than 15 metres.

**(5) 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 Maps 2A and 2B 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 Maps 2A and 2B;
- (ii) For clarity, where either no height limit or a height limit “H 0” is specified, no buildings or structures are permitted;
- (iii) Paragraph (i) does not prevent the erection of parapets, fences, safety railings and wind mitigation structures on the *north building* not exceeding 1.2 metres in height, so long as they do not exceed a height of 26.0 metres;
- (iv) Paragraph (i) does not prevent the erection or use of stair towers, elevator overruns, mechanical equipment and/or enclosures for any of the foregoing on the roof of the 8th storey of the *north building*, provided:
  - (a) the combined area of the stair towers, elevator overruns, mechanical equipment and enclosures on the *north building* does not exceed 30% of the area of the roof of the 8th storey of the north building;
  - (b) the stair towers, elevator overruns, mechanical equipment and enclosures on the *north building* do not exceed 3.0 metres in the areas identified as ‘H 26.0’ on Maps 2A; and
  - (c) the stair towers, elevator overruns, mechanical equipment and enclosures comply with the angular plane described in (viii) below.
- (v) 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 2A and 2B except:
  - (a) stairs (excluding stairs providing access to underground areas), landscape features, uncovered ramps (including garage and wheelchair ramps);



(b) the permitted projections outlined in the chart below:

PROJECTING STRUCTURES	LOCATION OF PROJECTION	MAXIMUM PERMITTED PROJECTION	ADDITIONAL QUALIFICATIONS
A. eaves, cornices, ornamental elements, architectural details,	Beyond the heavy lines shown on Maps 2A and 2B 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 Maps 2A and 2B at that height	2.5 metres from the main exterior wall to which it is attached	(I) not permitted in the <i>mews</i> or on Queen Street West (II) not permitted in <i>publicly accessible landscaped open space</i>
C. porch (covered platform) that is landscaped open space and is less than 1.2 m above finished grade	Beyond the heavy lines on Maps 2A and 2B at that height	2.5 metres from the most exterior portion of the wall to which it is attached	(I) not permitted in the <i>mews</i> or on Queen Street West (II) not permitted in <i>publicly accessible landscaped open space</i> ;
D. canopy	Beyond the heavy lines on Maps 2A and 2B at that height	2.5 metres from the wall to which it is attached	
E. fences, safety railings, balustrades and wind mitigation structures	Beyond the heavy lines shown on Maps 2A and 2B at that height	the extent of the roof of the storey below, or 2.0 metres from the main exterior wall, whichever is greater	(I) height of fence or safety railing not to exceed 1.2 metres (II) if projecting into the angular plane described in Section 5(1)(viii) of this exception, at least 80% of the materials must be transparent
F. balconies	Beyond the heavy lines on Maps 2A and 2B at that height	2.0 metres from the main exterior wall to which it is attached except if fronting onto Queen Street West and located on any of the first four storeys of the building, shall not exceed 0.45 metres;	(I) combined width of all projecting bay windows and balconies on a façade at a given <i>storey</i> not to exceed 50% of the length of that façade at that <i>storey</i>

PROJECTING STRUCTURES	LOCATION OF PROJECTION	MAXIMUM PERMITTED PROJECTION	ADDITIONAL QUALIFICATIONS
G. bay windows	Beyond the heavy lines on Maps 2A and 2B on any of the first three storeys of the <i>south building</i>	0.6 metres from the wall to which it is attached	(I) width of bay window, as measured where the window joins the wall, not to exceed 3.9 metres (II) combined width of all projecting bay windows and balconies on a façade at a given <i>storey</i> not to exceed 60% of the length of that façade at that <i>storey</i>

- (vi) No building or structure shall be erected which does not have:
- (a) a minimum of 2 *storeys*;
  - (b) a minimum first *storey* floor-to-floor height of 4.5 metres for at least 39 m of the Queen Street West frontage, and a minimum of 4.3 metres for the remainder of the Queen Street West frontage;
  - (c) a minimum setback of 1.7 metres at a *height* between 12.0 metres and 15.0 metres above *grade* on the north façade of the *north building*, fronting onto Queen Street West with the exception of the 28 metre *height* zone as shown on Map 2A; and
  - (d) a minimum setback of 2 m at a *height* between 12.0 metres and 20.1 metres above *grade* on the south façade of the *north building*.
- (vii) Subject to the above, no person shall erect a building or structure abutting Queen Street West unless the building or structure is erected such that one or more of its walls abutting Queen Street West is built to the Build-To Line shown on Map 2A for at least 75% of the frontage onto Queen Street West with a minimum building *height* of 12.0 metres at the Build-To Line;
- (viii) All parts of any building or structure must be located within a southward 45 degree angular plane rising from a line located at a height of 14 metres, from the *lot* line abutting the south side of Queen Street West. Where the angular plane is more restrictive than any other building envelope provisions of this exception, the angular plane provisions will prevail, with the exception of:
- (a) the 28.0 metre *height* limit area shown on Map 2A of this exception; and

- (b) parapets, fences, balustrades, safety railings and wind mitigation structures not exceeding 1.2 metres in *height*, except if located above a *height* of 26.0 m, such structures must be located at least 1.2 metres away from the edge of the roof of the 8th storey of the *north building*.
- (ix) In no case shall the *floorplate* of the *south building* above the 6th storey exceed 940 square metres;
- (x) No person shall on any *lot* erect or use any building or any portion thereof for any use unless:
  - (i) 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;
  - (ii) the main floor level of the *north building* has a depth of not less than 6.0 metres measured from the main front wall of the building and a width of at least 60% of street frontage of the building or frontage onto a publicly accessible area of the building; and
  - (iii) 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 or the *publicly accessible landscaped open space* opposite the door by a level surface or a ramp not exceeding a gradient of 1 in 25 (4%).
- (xi) No person shall erect or use a structure having more than one basement or floor level below or partly below grade containing dwelling units.

(6) **PEDESTRIAN OPENINGS**

1. A pedestrian opening is required between Queen Street West and the *mews* as indicated on Map 3. The pedestrian opening must:
  - (i) have no doors, gates or other barriers at either end, and provide unobstructed pedestrian access except for some pillars and structures associated with the buildings;
  - (ii) be a minimum of 11.0 metres wide;
  - (iii) provide a clear height of 6.8 metres for the full width of the opening; and

(iv) be aligned with the centreline of Northcote Avenue, as shown on Map 3.

2. A direct and clear, unencumbered pedestrian right-of-way (ROW) of at least 4.8 metres in width, within which no structures or patios are permitted, must be provided through the minimum 11.0 metre wide pedestrian opening.

**(7) LANDSCAPED OPEN SPACE**

1. No person shall erect or use a building or structure on the *lot* unless *publicly accessible landscaped open space* at grade is provided as indicated on Map 3.
2. A minimum of 490 sq. m. of *soft landscaping* shall be provided on site at finished grade.

**(8) 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* for residential uses according to 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 (low-income)</i> Bachelor Unit	0.1 per unit
<i>Affordable (low-income)</i> Unit with 1 or more <i>bedrooms</i>	0.3 per unit
<i>Affordable (moderate-income)</i> Bachelor Unit	0.3 per unit
<i>Affordable (moderate-income)</i> Unit with 1 or more <i>bedrooms</i>	0.5 per unit
<i>Artist live/work studios</i>	0.3 per unit

- (ii) a minimum of 0.12 *parking spaces* per dwelling unit shall be provided on the *lot* for visitors to the residential portion of 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;
- (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; and
  - (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 Section 4(13)(a) of Zoning By-law No. 438-86, as amended, the minimum requirement for bicycle parking shall be as described in Section 4(13) but the requirement:
- (i) shall not be capped at 200 *bicycle parking spaces*; and
  - (ii) at least 167 of the *bicycle parking spaces* described in (i) above shall be provided indoors but not within individual storage lockers.
4. The provisions of Section 4(6) of Zoning By-law No. 438-86, as amended, shall be satisfied by one *loading space – type G* being provided on the *lot*.

(9) **RESIDENTIAL AMENITY SPACE**

1. Notwithstanding the provisions of Section 4(12) of Zoning By-law No. 438-86, as amended, indoor *residential amenity space* shall be provided as follows:
- For buildings containing 20 or more dwelling units a minimum of 1.5 square metres per dwelling unit of indoor *residential amenity space* shall be located in a multi-purpose room or rooms provided that at least one room or contiguous group of rooms shall:
- (i) be the lesser of 100 square metres in size or the minimum requirement;
  - (ii) contain a kitchen and have access to a washroom; and
  - (iii) be adjoining and directly accessible to at least 40 square metres of the required outdoor *residential amenity space*.

**(10) HOUSING MIX**

1. Any development containing residential *dwelling units* shall provide:
  - (i) a minimum of 25 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.

**(11) SITE SPECIFIC EXCEPTIONS**

1. The following site specific exceptions shall be deleted from the Index of Exceptions for 1171 Queen Street West:
  - (i) Section 12 (1) 287; and
  - (ii) Section 12 (1) 290.

**(12) IMPLEMENTATION**

1. No person shall erect or use any building or structure unless the development includes:
  - (i) loading and vehicular access which is to designed to be shared with the sites known in 2007 as 1155 Queen Street West and 1181 Queen Street West; and
  - (ii) garbage and recycling storage which is designed to be shared with the site known in 2007 as 1155 Queen Street West.
2. No person shall erect or use any building or structure above grade prior to satisfying the following conditions:
  - (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 13 (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 *lot* as a first charge;
  - (ii) the owner, at its own cost, shall provide a certified cheque for \$500,000 (indexed to the non-residential building construction price index as of December 1 2008) 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) new work space for Toronto Public Health to allow community and/or arts use of the previous Toronto Public Health work space;
  - (d) 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
  - (e) development of Lisgar Park.
- (iii) the owner shall enter into an agreement with the City of Toronto to secure the funding and timing of construction of the extension of Sudbury Street from the existing terminus of Sudbury Street to Queen Street at Gladstone Avenue;
  - (iv) the owner shall convey for nominal consideration and at no cost to the City any lands within the heavy lines shown on Map 1 that are required for the extension of Sudbury Street;
  - (v) 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;
  - (vi) the owner shall register on title of the *lot* the Agreement dated October 5, 2006, as amended, between Bohemian Embassy Residences Inc., Greater Toronto Transit Authority and Canadian National Railway Company; and
  - (vii) the owner shall enter into an agreement with the City or other affected party to provide temporary vehicular access to the *lot* over the property known in 2007 as 1199 Queen Street West by means of a driveway having a minimum width of 5.5 metres for two-way operation.



**(13) SECTION 37 OF THE PLANNING ACT**

1. The owner of the *lot* at its own expense and in accordance with and subject to the agreement referred to in Section 12 (2) 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) Sudbury Street Extension

prior to condominium registration, the owner shall construct, or cause another party to construct, the extension of Sudbury Street from the intersection of Gladstone Avenue and Queen Street West to its existing terminus, providing that in the event that Sudbury has not been extended from its existing terminus to the westerly boundary of the site known municipally in 2007 as 150 Sudbury Street, the City makes all necessary arrangements to enable the owner to construct that portion of the extension;

(iii) Crash Mitigation Measures

prior to condominium registration, the owner shall construct, or cause another party to construct, crash mitigation measures related to the rail corridor, as set out in the agreement dated October 5, 2006, as amended, between Bohemian Embassy Residences Inc., Greater Toronto Transit Authority and Canadian National Railway Company;

(iv) Noise and Vibration

prior to condominium registration, the owner shall construct, or cause another party to construct, any works required by the agreement dated October 5, 2006, as amended, with Greater Toronto Transit Authority and Canadian National Railway Company;

(v) Publicly Accessible Landscaped Open Space and Mews

prior to condominium registration, the owner shall authorize and permit public access to the publicly accessible landscaped open space and *mews* shown on Map 3;

## (vi) Wind Mitigation Measures

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;

## (vii) Pedestrian Openings

the owner shall provide a pedestrian opening in the north building, as shown on Map 3 and provided for in Section 7 of this by-law, with no doors, gates or other barriers at either end, and which provides unobstructed pedestrian access except for some pillars and structures associated with the buildings;

## (viii) Integrated Landscaping and Connectivity

(a) the owner shall provide for integrated landscaping with the sites known municipally in 2007 as 48 Abell Street, 1155 Queen Street West and 1181 Queen Street West, to the satisfaction of the City;

(b) the owner shall provide for integrated bicycle and pedestrian connectivity with the sites known municipally in 2007 as 48 Abell Street, 1155 Queen Street West and one or both of 1181 Queen Street West and the Sudbury Street extension, to the satisfaction of the City; and

(c) the owner shall, in co-operation with the owner of 48 Abell Street, provide a pedestrian and bicycle connection from Queen Street West to the Sudbury Street Extension which shall be a convenient connection for pedestrians and cyclists, with a minimum width of 3 metres, without stairs and with a maximum slope of 1:12 to meet minimum wheelchair accessibility standards.

## (ix) Servicing Requirements

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 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.

**(14) DEFINITIONS**

All italicized words and expressions in this exception have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the terms *artist live/work studio*, *grade*, *height*, *residential amenity space* and *street-related retail and service uses*.

The following definitions either replace the definitions listed above or provide definitions for new terms:

*affordable artist work studio* shall mean a studio for the production of art and which is the subject of an agreement between the City and the owner, registered on title, that it will be rented at below market rates to a working artist or artists to the satisfaction of the Director, Business Development and Retention and/or the Director of Culture for a period no less than 20 years from the date of first occupancy of the studio;

*affordable (low-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 no more than 0.8 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;

*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;

*floorplate* shall mean the total floor area of a storey measured to the exterior walls of that storey;

*grade* means

For any portion of the *north building* or structure associated primarily with the *north building*, *grade* shall mean the average elevation of the sidewalk on Queen Street West adjacent to the *lot* (91.14 masl); For any portion of the *pavilion building*, *south building* or structure associated primarily with the *south building*, *grade* shall mean the average elevation of the sidewalk on Sudbury Street adjacent to the *lot*, planned elevation of the sidewalk on Sudbury Street adjacent to the *lot* or 94.11 masl, whichever is higher;

*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;

*mews* shall mean a *publicly accessible landscaped open space* area, as identified on Map 3, which is primarily for the use of pedestrians and cyclists;

*north building* shall mean the building fronting onto Queen Street West and identified on Map 2A as having a maximum height of 26.0 metres.

*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*;

*pavilion building* shall mean a two storey entry pavilion, located between the *north building* and *south building*, as shown on Map 2B;

*publicly accessible landscaped open space* shall mean a *landscaped open space* area as identified on Map 3 which is open and accessible to the public at all times save and except patios permitted by Section 2;

*residential amenity space* shall mean a common area or areas within the *lot* provided for recreational and social purposes, any portion of which:

- (a) is located indoors shall be provided exclusively for the use of the residents of the buildings at 1171 Queen Street West and 1155 Queen Street West;
- (b) is located outdoors shall generally, but not exclusively, be provided for the use of the residents of the building; and
- (c) is located outdoors cannot include a passive or otherwise inaccessible green roof.

*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.

*soft landscaping* shall mean an open, unobstructed area that supports the growth of vegetation such as grass, trees, shrubs, flowers or other plants and shall include planters;

*south building* shall mean the rear tower fronting onto Sudbury Street with a maximum height indicated on Map 2B of 60.6 metres;

*street-related retail and service uses* shall:

- (a) have the same meaning as defined in Section 2 of Zoning By-law No. 438-86, as amended, for the portion of the building facades which face onto a public highway; and
- (b) mean, for the portion of building facades which face onto the *mews*, one or more of the uses listed in sections 8(1)(f)(b)(i), (ii) and (iv), other than a public park or playgrounds, where the principal public entrance to each shop or store is located in the exterior wall of the building which is directly accessible by pedestrians along a route no more than 3 metres from the *mews* and the level of the floor of the principal public entrance to each shop or store is located within 0.2 metres of the level of the *mews* opposite such entrance.

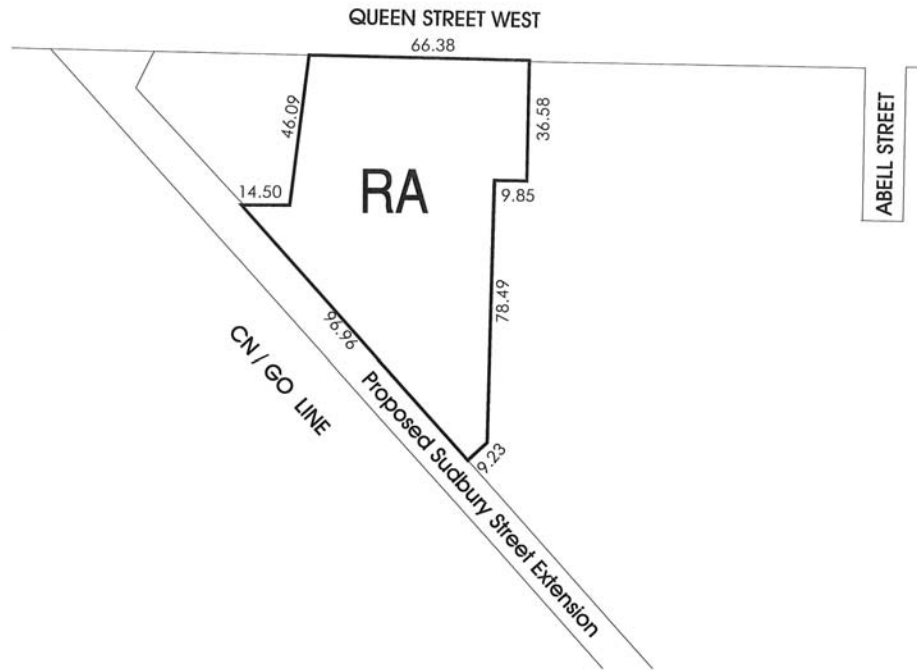
*West Queen West Triangle Lands* means the lands delineated by the heavy lines on Map 4 of this exception.

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

PURSUANT TO DECISIONS/ORDERS OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JANUARY 8, 2008, SEPTEMBER 24, 2008 AND OCTOBER 29, 2008 IN BOARD CASE NUMBERS PL051203, PL060087 AND PL060443.

City of Toronto By-Law No. \_\_\_\_\_ - 2007

Map 1

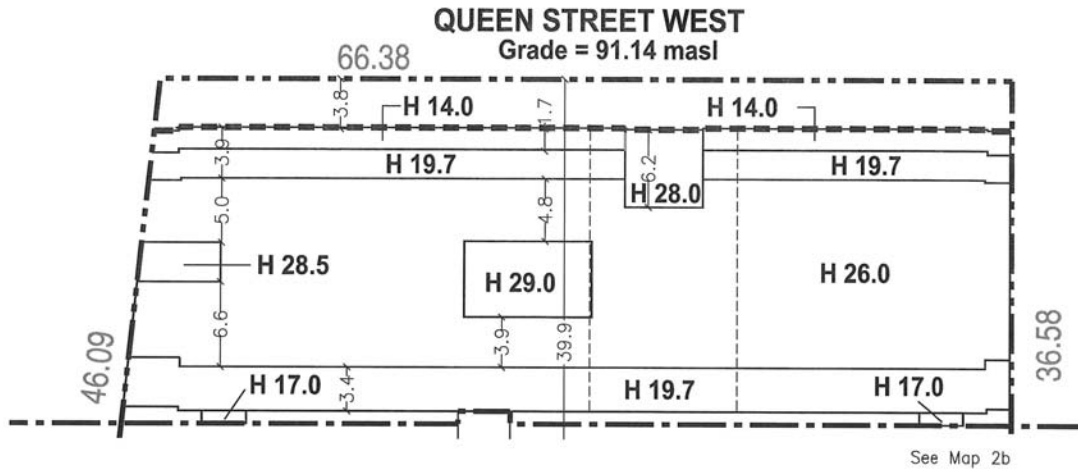


Lands known municipally as 1171 Queen Street West in 2007



City of Toronto By-Law No. \_\_\_\_\_ - 2007

Map 2a

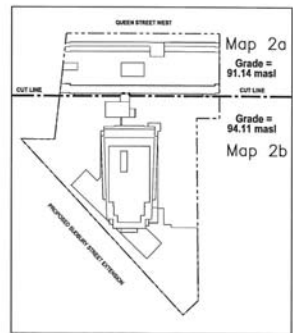


Lands known municipally as 1171 Queen Street West in 2007

----- Build - to - Line

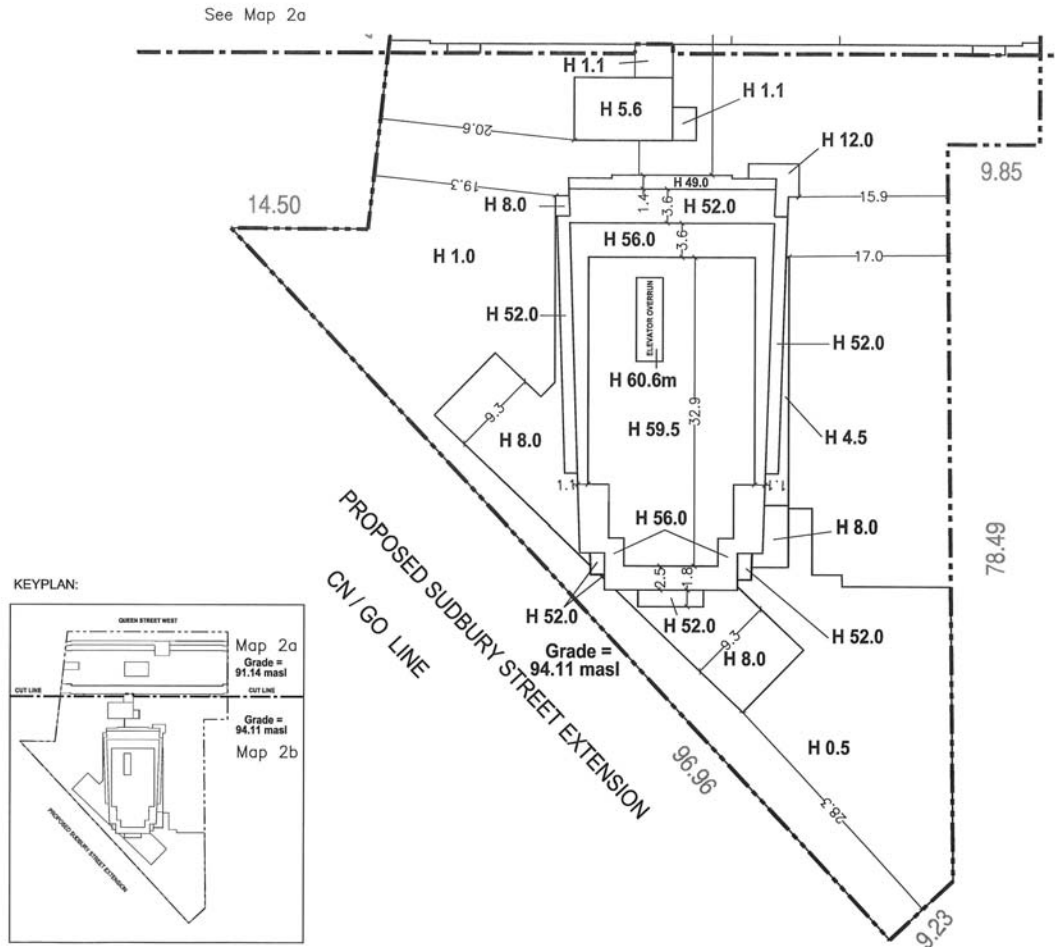
H DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

KEYPLAN:



City of Toronto By-Law No. \_\_\_\_\_ - 2007

Map 2b



H DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

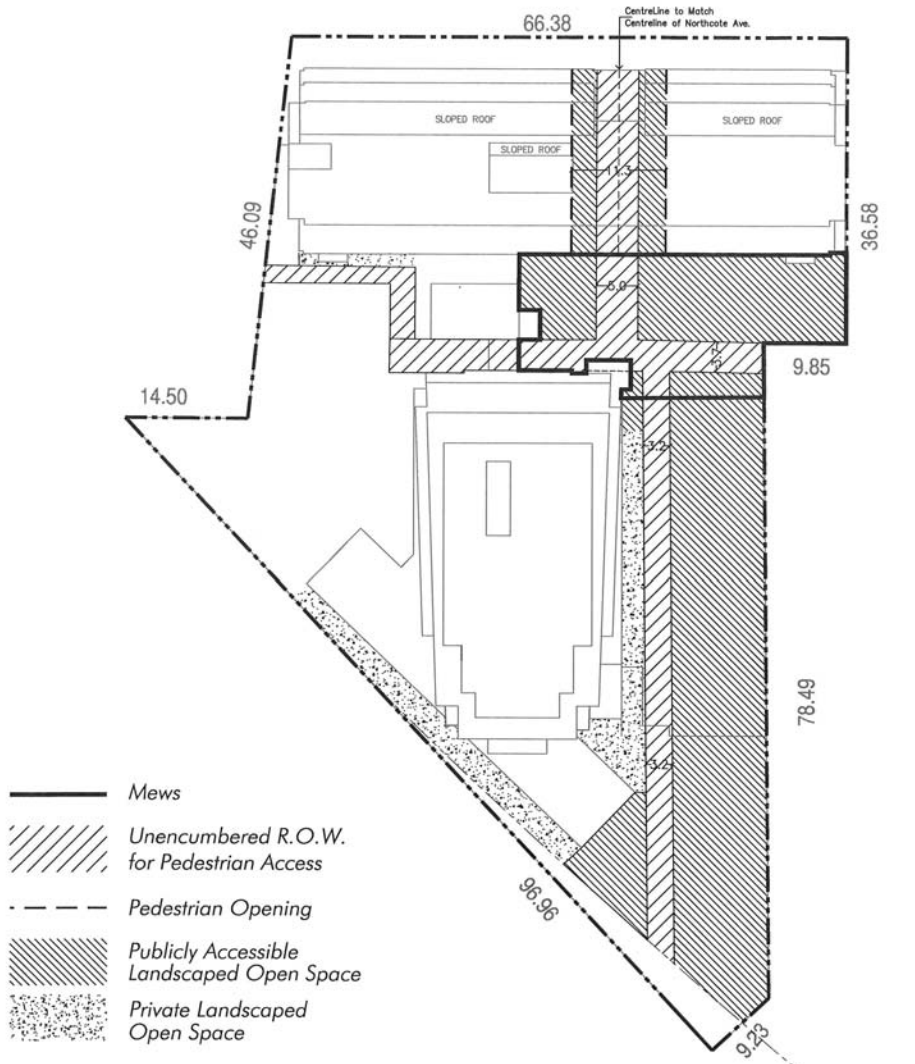
Lands known municipally as 1171 Queen Street West in 2007





City of Toronto By-Law No. \_\_\_\_\_ - 2007

Map 3



Lands known municipally as 1171 Queen Street West in 2007



**Map 4**

