

CITY OF TORONTO

BY-LAW No. 1166-2009(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 48 Abell Street.

WHEREAS the Ontario Municipal Board, by way of an Order issued on the January 8, 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 48 Abell Street; 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 48 Abell Street (the "Lands") has elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS funding has been secured to construct 190 units of *affordable* rental housing on the Lands; and

WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by 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;

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 By-law from MCR T3.0 C1.0 R2.5 and I1 D3 to RA as shown on Map 2 of this exception.

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

On the lands outlined by heavy lines and identified as 48 Abell Street on Map 1 to this exception, 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 within the lands indicated on Map 1 to this exception:

- Section 4(2)
- Section 4(11)
- Section 4(16)
- 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) *residential amenity space;* and
- (iv) *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 (d) 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)	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)	*	Q5 Q7
(iii)	ASSOCIATED / ACCESSORY RESIDENTIAL USES		
	Any of the uses permitted in a RA district in section (7)(1)(f)(a)(iii)	*	
(b)	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) except:	*	Q1
	A. arena, stadium, racetrack		
	B. <i>club</i>		
(ii)	COMMUNITY SERVICES, CULTURAL AND ARTS FACILITIES		
	Any of the uses permitted in a RA district in section (7)(1)(f)(b)(ii) except:	*	Q3
	A. a premises of a <i>charitable institution, non-profit institution</i> or other community or social agency are permitted only subject to the additional qualifications		
(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		Q1 Q2
	A. an <i>entertainment facility</i> is not permitted; and		Q8
	B. <i>restaurants, take-out restaurants, bake-shops, caterer's shop, retail stores, showrooms</i> and <i>courier services</i> are permitted only subject to the additional qualifications		

(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>	*	Q4
	<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>Artist work studio</i>		P
	<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>		Q5
	<i>Packaging plant</i>		P
	<i>Pharmaceutical factory – secondary</i>		P
	<i>Printing plant</i>		P
	<i>Winery</i>		P
(ix)	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

Public transit	*	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; or
 - (c) outdoor areas on Map 3 which are more than 3 metres from a building *façade*; or
 - (d) a portion of the *lot* between the building in which an 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, 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.
 - (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 total *non-residential gross floor area* of any one *retail store* or *showroom* is limited to no more than 1800 square metres; and
 - (ii) notwithstanding (i) above, the total *non-residential gross floor area* of any one *retail store* or *showroom* abutting the *mews* is limited to no more than 500 square metres.
4. The premises and offices 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, recreation, housing, nutrition, 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 3,745 square metres shall be provided at full build-out, of which a minimum of 2,400 square metres shall be provided in *Building A* and a minimum of 1,300 square metres shall be provided in *Building B*. 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 3(d)(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* relating to the following uses shall be counted as non-residential solely for the purpose of meeting the minimum non-residential density requirement of this section of the exception:
 - (a) *artist live/work studios*; and
 - (b) any portion of the indoor *residential amenity space* which is primarily used for the production of art by the residents of the building.

4. USES AT GRADE

- 1. No person shall erect or use a building or structure fronting onto the *mews* and/or Abell Street for any purpose unless:
 - (i) *street-related retail and service uses* are provided;
 - (ii) at least 60 percent of the aggregate width of any building facade facing onto the *mews* or onto Abell Street 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; and

(iii) there shall be at least one entry door every 15 metres at *grade* along the *mews* east of the *pedestrian opening* required by paragraph (6) of this exception.

2. No person shall erect or use any building or any portion thereof for any non-residential use unless:

(i) the main floor is located no more than 0.2 metre 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) notwithstanding (i) above, a non-residential use is permitted within the first level of *Building A* below *grade*, having a floor level up to 1.0 metre below the level of the publicly accessible area directly opposite the entry to the unit;

(iii) the main floor level along any street frontage or any frontage along a publicly accessible area shall have a depth of not less than 7.0 metres measured from the main wall of the building for a width of at least 60% of any street frontage of the building or any frontage of the building along a publicly accessible area; and

(iv) 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%).

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 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) Despite paragraph (i) above, no building elements shall exceed the height limits on Map 2 except:
- a. for *Building A*, stair towers, elevator overruns, mechanical equipment and/or enclosures for any of the foregoing, provided:
 - i. the maximum height of the top of such elements is no higher than the sum of 3.0 metres and the applicable height limit;
 - ii. the combined area of the stair towers, elevator overruns and mechanical equipment does not exceed 150 square metres for *Building A*; and
 - iii. all such elements are located at least 1.5 metres from the edge of the roof of the storey immediately below.
 - b. for *Building A*, parapets up to 0.6 metres;
 - c. for *Building A*, guardrails up to 1.2 metres, provided all guardrails are located at least 1.5 metres from the edge of the roof of the storey immediately below;
 - d. for *Building B*, stair towers, mechanical rooms, mechanical equipment, vestibules and enclosures for any of the foregoing, provided:
 - i. the maximum height of the top of such elements is no higher than 28.1 metres above *grade*;
 - ii. the maximum height of mechanical equipment and/or mechanical rooms does not exceed 2.0 metres;
 - iii. the maximum area of all such elements does not exceed 200 square metres;
 - iv. all stair towers and vestibules are located at least 3 metres from the edge of the storey immediately below; and
 - v. mechanical equipment, mechanical rooms or enclosures for any of the foregoing are located at least 1.5 metres from the southern edge of the storey immediately below.

- (iv) Notwithstanding paragraph (ii) above, no person shall erect a building or structure above finished ground level closer to a *lot* line than the heavy lines indicated on Map 2 except:
- a. stairs (excluding stairs providing access to underground areas), landscape features, and wheelchair ramps; and
 - 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 Map 2 and Map 3 at that height	0.45 metres from the wall to which it is attached	(I) must comply with the angular plane rising at a 45 degree angle from 13 metres above the south property line of the Queen Street West right-of-way
B. uncovered platform that is <i>landscaped open space</i> and is less than 1.2m above finished <i>grade</i>	Beyond the heavy lines on the Map 2 and Map 3 at that height	2.5 metres from the wall to which it is attached	(I) not permitted in the <i>mews</i> ; (II) not permitted in <i>publicly accessible landscaped open space</i>
C. porch (covered platform) that is <i>landscaped open space</i> and is less than 1.2 m above finished <i>grade</i>	Beyond the heavy lines on the Map 2 and Map 3 at that height	3.0 metres from the wall to which it is attached	(I) not permitted in the <i>mews</i> ; (II) not permitted in <i>publicly accessible landscaped open space</i> ;
D. canopy	Beyond the heavy lines on Map 2 and Map 3 at that height	2.5 metres from the wall to which it is attached	(I) must comply with the angular plane rising at a 45 degree angle from 13 metres above the south property line of the Queen Street West right-of-way
E. fences, safety railings, balustrades and wind mitigation structures	Beyond the heavy lines shown on Map 2 and Map 3 at that height	2.0 metres from the wall or the extent of the roof of the storey immediately below, whichever is greater	(I) must comply with the angular plane rising at a 45 degree angle from 13 metres above the south property line of the Queen Street West right of-way (II) height of fence or safety railing not to exceed 1.2 metres.
F. balconies	Beyond the heavy lines on Map 2 and	(I) For balconies located on the	(I) must comply with the angular plane rising at a 45 degree angle from 13 metres above

	Map 3 at that height	first four floors and facing onto the <i>mews</i> , not more than 0.45 m from the heavy line on Map 2 at that height; (II) For balconies located elsewhere, not more than 0.75 m from the heavy line on Map 2 at that height	the south property line of the Queen Street West right-of-way (III) 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>
G. bay windows	Beyond the heavy lines on the Map 2 and Map 3 at that height	0.45 metres from the wall to which it is attached	((I) must comply with the angular plane rising at a 45 degree angle from 13 metres above the south property line of the Queen Street West right-of-way (II) width of bay window, as measured where the window joins the wall, not to exceed 3.0 metres (III) 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>

- (v) No building or structure shall be erected which does not have:
- a. a minimum of 2 *storeys*; and
 - b. a minimum setback of 2.0 metres on the north side of *Building B*, at a *height* between 12.0 metres and 14.5 metres.
- (vi) 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 13 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;

- (vii) The maximum *floor plate* for the portion of *Building A* at a *height* above 25.0 metres is 735 square metres;
- (viii) The maximum *floor plate* for the portion of *Building B* at a *height* above 28.5 metres is 690 square metres;
- (ix) No person shall erect or use a building or structure any part of which is located closer than 10 metres to a wall of a building on the same *lot*, excluding exterior walls which form an angle of 90 degrees or greater to each other on a horizontal plane and excluding door entries recessed not more than 2 metres; and
- (x) 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. Two pedestrian openings are required, as indicated on Map 3. The pedestrian openings shall:
 - (i) be a minimum of 10 metres wide;
 - (ii) provide a minimum clear height of 5.5 metres for the full width of the required opening; and
 - (iii) not have doors or gates on either end.
2. A direct and clear minimum 5 metre wide unencumbered pedestrian right-of-way, within which no structures or patios are permitted, shall be provided through each required 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* and *private landscaped open space* are provided in the locations indicated on Map 3.
2. Where required by Map 3, *private landscaped open space* shall be located no more than 0.2 metres below and no more than 1.2 metres above the level of the adjacent *publicly accessible landscaped open space*.
3. A minimum of 600 squares metres of *soft landscaping* shall be provided on the roof of *Building B*.

8. PARKING AND LOADING

1. Notwithstanding the provisions of Section 4(4)(b) of Zoning By-law No. 438-86, as amended:

- (i) provided the *dwelling units* in *Building A* are *affordable dwelling units*, a minimum of 22 *parking spaces* shall be provided and maintained on the *lot* for *Building A*;
- (ii) if the *dwelling units* in *Building A* are not *affordable dwelling units*, *parking spaces* shall be provided as per the following table:

Unit type	Minimum parking spaces
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 dwelling unit</i>	0.1 per unit
<i>artist live/work studio</i>	0.1 per unit

- (iii) provided that *Building B* contains no more than 310 *dwelling units*, a minimum of 221 *parking spaces* shall be provided and maintained on the *lot* for *Building B*;
- (iv) if the number of *dwelling units* in *Building B* exceeds 310 *dwelling units*, each additional *dwelling unit* shall provide *parking spaces* as per the table in (ii) above;
- (v) of the parking spaces required by paragraph (ii) above, a minimum of 0.12 parking spaces per dwelling unit shall be provided for visitors. 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 *Building A*;
 - b. be equally available to visitors of all residents of *Building A*; and
 - c. be accessible by driveways or passageways designating the way to the visitors' parking facilities with the route to the visitor parking spaces designated by clearly visible signs.

- (vi) of the parking spaces required by paragraphs (iii) and (iv) above, a minimum of 0.12 parking spaces per dwelling unit shall be provided for visitors. 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 *Building B*;
 - b. be equally available to visitors of all residents of *Building B*; and
 - c. be accessible by driveways or passageways designating the way to the visitors' parking facilities with the route to the visitor parking spaces designated by clearly visible signs.
 - (vii) of the parking spaces required by paragraphs (i) through (iv) above, a minimum of 3 *car-share parking spaces* shall be provided on the *lot*. If after a period of not less than 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 building within which the spaces are provided 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. No *parking spaces* shall be required for non-residential uses unless the *non-residential gross floor area* exceeds 5,600 square metres, in which case parking for non-residential uses shall be required at a rate of 1 *parking space* per 100 square metres of *non-residential gross floor area*.
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) shall not include *bicycle parking spaces* provided 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, *residential amenity space* shall be provided as follows:
 - (i) for *Building A* and *Building B* combined, a minimum of 1.5 square metres per dwelling unit of indoor *residential amenity space* shall be provided;
 - (ii) for *Building A*, at least 360 square metres of indoor *residential amenity space* shall be provided of which a minimum of 80 square metres shall be located in a multi-purpose room or contiguous multi-purpose rooms, at least one of which contains a kitchen and has immediate access to a washroom;
 - (iii) for *Building A*, a minimum of 100 square metres of outdoor *residential amenity space* shall be provided;
 - (iv) for *Building B*, at least 100 square metres of the indoor *residential amenity space* required in (i) above shall be located in a multi-purpose room or contiguous multi-purpose rooms, at least one of which contains a kitchen and has immediate access to a washroom; and
 - (v) for *Building B*, a minimum of 2 square metres per unit of outdoor *residential amenity space* shall be provided, of which at least 20 square metres is to be provided in a location adjoining or directly accessible from indoor *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;
 - (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; and
 - (iii) a minimum of 15 *dwelling units*, excluding *artist live/work studios*, having 3 or more bedrooms.

11. SITE SPECIFIC EXCEPTIONS

1. The following site specific exceptions shall be deleted from the Index of Exceptions for 48 Abell:
 - (i) Section 12(1)287;
 - (ii) Section 12(1)290;
 - (iii) Section 12(2)270; and
 - (iv) Section 12(7).
2. This exception will prevail over any provision of any other exception included in Section 12(2).

12. IMPLEMENTATION

1. No person shall erect or use any building or structure unless the development includes:
 - (i) loading and vehicular access which is designed to be shared with the site known in 2007 as 150 Sudbury Street; and
 - (ii) garbage and recycling storage which is designed to be shared with the site known in 2008 as 150 Sudbury Street.
2. No person shall erect or use any building or structure above *grade* prior to satisfying the following conditions:
 - (i) the owner 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 2(13) 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 shall enter into an agreement to sell approximately six (6) *at-grade* workshops in *Building B* fronting on the *mews* (approximately 430 square metres) to the City, or an art-space management organization acceptable to the City, at \$250.00 per square foot, indexed to the construction price index from July 17, 2007;

- (iii) the agreement referred to in subsection (2)(ii) hereof shall include an option for the City to purchase additional *at-grade* workshops in *Building B* fronting on the *mews* for *affordable* arts-related space at market rates of \$350.00 per square foot, indexed to the construction price index from July 17, 2007;
- (iv) the owner shall provide compensation to assist in the relocation of the tenants in the 20 units required to be demolished in the existing building to enable the construction of *Building A* (including costs associated with moving and early termination of leases), with an upset limit of \$110,000.00;
- (v) should the relocation costs referred to in subsection (2)(iv) hereof be less than \$110,000.00, the City shall be entitled to use the difference towards the purchase of additional *at-grade* workshops in *Building B* fronting on the *mews* for *affordable* arts-related space, at the same terms referred to in subsection (2)(ii) hereof;
- (vi) the owner shall enter into an agreement with the City of Toronto prior to the issuance of an *above-grade* building permit to secure the funding and timing of the construction of the extension of Sudbury Street from the existing terminus of Sudbury Street to Queen Street at Gladstone Avenue;
- (vii) 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;
- (viii) the owner shall convey to the City in escrow 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 Abell Street for the purpose of facilitating construction of Abell Street at such time as may be required for other lands.
- (ix) all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this site have been secured, to the satisfaction of the Executive Director of Technical Services; and
- (x) the owner shall register on title of the *lot* the agreement with Greater Toronto Transit Authority and Canadian National Railway Company dated December 4, 2006, as may be amended.

- (xi) provide a cash-in-lieu payment of park land contribution equal to 5% of the value of the site payable in accordance with City standards in conjunction with the proposed building or structure, unless such contribution is otherwise waived by the City.
- (xii) the owner shall enter into an agreement with the City or other affected party to provide access to the 48 Abell Lands through the lands known municipally in 2007 as 150 Sudbury Street.

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 1(12) 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 a designated building permit for *Building A*, 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 Street 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) Abell Street Extension

prior to condominium registration of *Building B*, the owner shall construct, or cause another party to construct, that portion of Abell Street which forms part of the lands identified within the heavy lines on Map 1, unless such portion of Abell Street has already been constructed;

(iv) Interim Condition for Abell Street

if the owner has not obtained a building permit for *Building B* within three years of occupancy of *Building A*, the owner shall provide a 3-metre walkway, in reasonable condition, for pedestrian and bicycle access over that portion of Abell Street which forms part of the lands identified within the heavy lines on Map 1, to the satisfaction of the Chief Planner;

(v) Crash Mitigation Measures

the owner shall construct, or cause another party to construct, crash mitigation measures related to the rail corridor, as set out in an agreement with Greater Toronto Transit Authority and Canadian National Railway Company dated December 4, 2006, as may be amended;

(vi) Noise and Vibration

the owner shall construct, or cause another party to construct, any works required by the agreement with Greater Toronto Transit Authority and Canadian National Railway Company dated December 4, 2006, as may be amended;

(vii) Publicly Accessible Landscaped Open Space and Mews

prior to a designated building permit for *Building A*, the owner shall authorize and permit public access to the *publicly accessible landscaped open space* and *mews* shown on Map 3, including permissions for when public access may be closed (e.g. during construction of *Building B*) to be detailed in the Section 37 agreement;

(viii) Interim Condition for Publicly Accessible Landscaped Open Space and Mews

If the owner has not obtained a building permit for *Building B* within three years of occupancy of *Building A*, the owner shall provide sodding or other interim treatment (at a similar cost) for the *publicly accessible landscaped open space* and *mews* shown on Map 3, as may be required pursuant to site plan approval and to the satisfaction of the Chief Planner;

(ix) 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;

(x) Pedestrian Openings

the owner shall provide two pedestrian openings, as shown on Map 3 and provided for in Section 6 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;

(xi) Integrated Landscaping and Connectivity

a. the owner shall provide for integrated landscaping with the sites known municipally in 2007 as 1171 Queen Street West and 150 Sudbury Street, 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 1171 Queen Street West and 150 Sudbury Street, to the satisfaction of the City;

(xii) Green Roof

the owner shall construct, or cause another party to construct, a passive green roof with a minimum area of 600 square metres as part of *Building B*;

(xiii) Podium Design

the owner shall construct, or cause another party to construct, the podium base of *Building A* and *Building B* substantially in accordance with the elevation drawings prepared by Architects Rasch Eckler Associates Ltd., dated February 2007, as may be revised pursuant to the site plan approval process;

(xiv) Workshop Space in *Building A*

the owner shall provide a minimum of 280 square metres of workshop space in *Building A* for use by the residents of the artist live/work units in *Building A*, to the satisfaction of the Chief Planner;

(xv) Servicing Requirements

the owner shall provide all matters 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; and

(xvi) Affordable Housing

if *Building A* does not develop as *affordable* housing, the owner and the City acknowledge and agree that additional facilities, services or matters may be required pursuant to Section 37 of the *Planning Act*.

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 Zoning By-law No. 438-86, as amended, with the exception of the terms *artist live/work studio*, *grade*, *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 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 housing provider, registered on title, that the unit will be rented at no more than 1.0 times the CMHC average market rent for dwelling units of similar type in the City of Toronto in effect at the time the dwelling unit is first occupied, and increased annually by the amount permitted by the Rent Review guidelines 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 and which is the subject of an agreement between the City and the housing provider, registered on title, that it will be rented at no more than 1.0 times the CMHC average market rent for dwelling units of similar size in the City of Toronto in effect at the time the dwelling unit is first occupied, and increased annually by the amount permitted by the Rent Review guidelines for a period 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;

Building A shall mean *Building A* as shown on Map 2;

Building B shall mean *Building B* as shown on Map 2;

car-share shall mean 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 shall mean a *parking space* exclusively reserved and signed for a car used only for *car-share* purposes and such *car-share* is for the use of carshare members, including non-residents;

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

grade shall mean:

- a. in the case of *Building A*, the average elevation of the sidewalk or planned elevation of the sidewalk on Sudbury Street adjacent to the *lot*; and
- b. in the case of *Building B*, 91.14 metres Canadian Geodetic Datum;

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.

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

- a. if located indoors, shall be provided exclusively for the use of the residents of the buildings;
- b. if located outdoors, shall generally, but not exclusively, be provided for the use of the residents of the building; and

- c. if located outdoors, cannot include a passive or otherwise inaccessible green roof.

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

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;

small car parking space 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.

street-related retail and service uses shall:

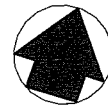
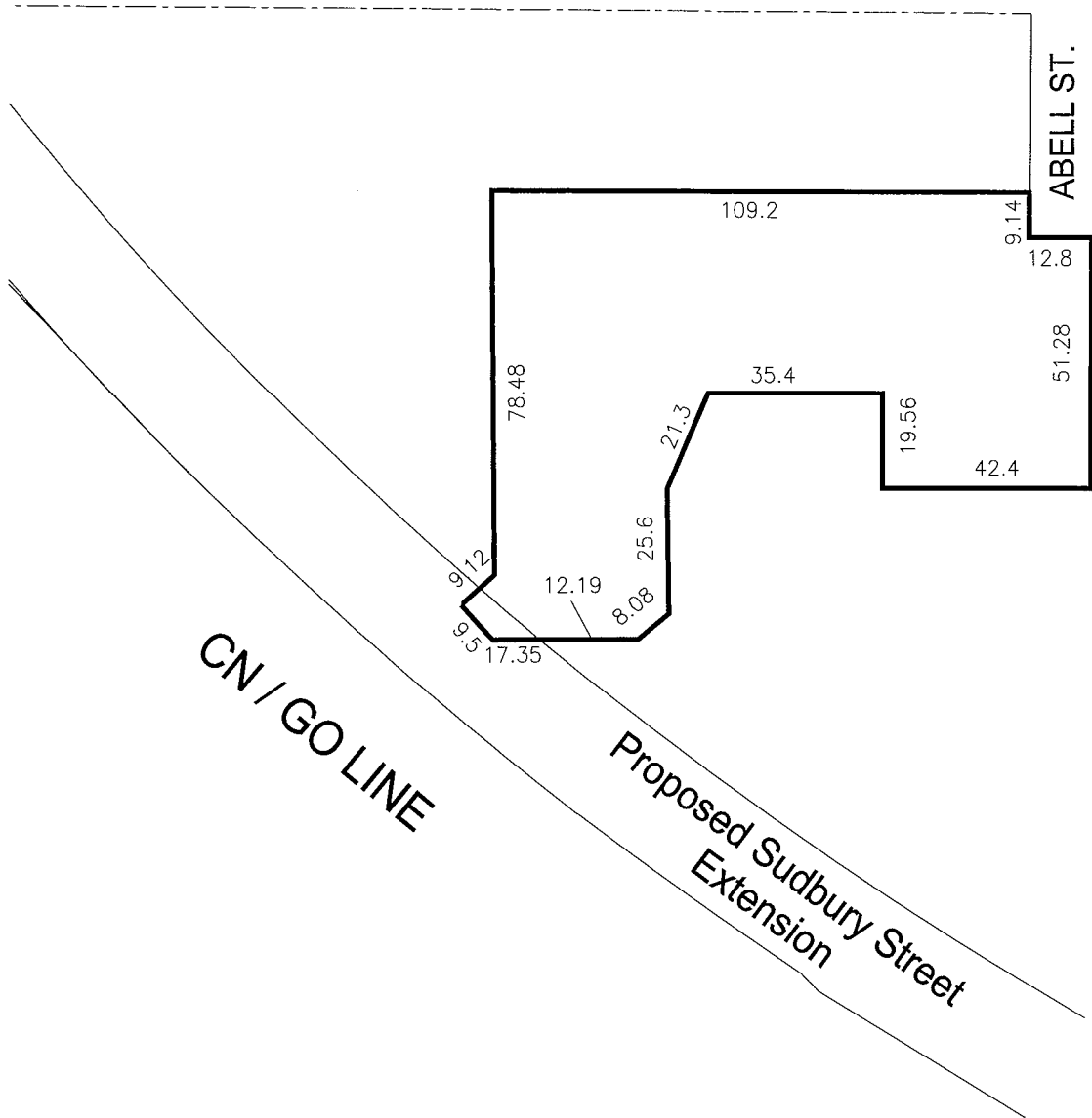
- a. have the same meaning as defined in Section 2 of Zoning By-law No. 438-86, as amended, for the portion of the building facades which face onto a public highway; and
- b. mean, for the portion of building facades which face onto the *mews*, one or more of the uses listed in sections 8(1)(f)(b)(i), (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.

- 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 as if no severance, partition or division occurred.

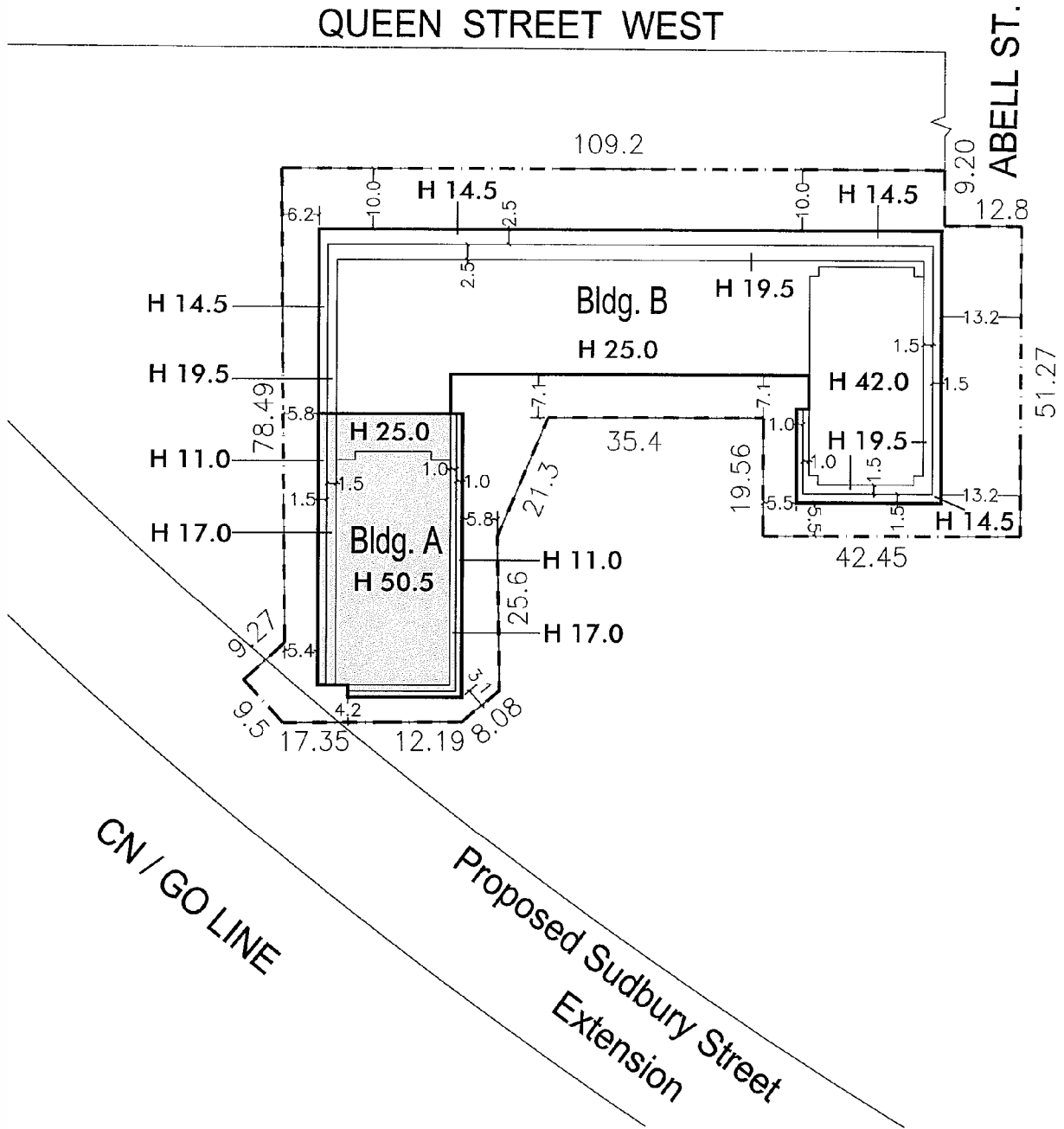
PURSUANT TO THE ONTARIO MUNICIPAL BOARD DECISION/ORDER ISSUED ON JANUARY 8, 2008 IN BOARD FILE NOS. PL051203, PL060087 AND PL060443.

Map 1

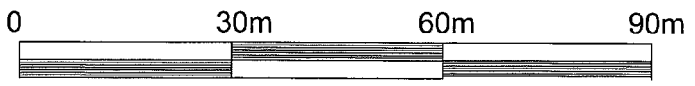
QUEEN STREET WEST



Map 2



H DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



Map 3

