

CITY OF TORONTO

BY-LAW No. 1169-2009(OMB)

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to the lands municipally known as 150 Sudbury Street.

WHEREAS the Ontario Municipal Board, by way of an Order issued on 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 2006 as 150 Sudbury 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 150 Sudbury Street (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. By-law No. 438-86, as amended, is further amended by:
 - (1) Amending Appendix A, Map 49G-321 to rezone the lands shown within the heavy lines on Map 1 of this By-law from I1 D3 to RA as shown on Map 1 of this exception.
 - (2) Adding the following exception to Section 12(2):

On the lands outlined by heavy lines and identified as 150 Sudbury 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

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

- (i) *artist live/work studio;*
- (ii) *grade;*
- (iii) *height;*
- (iv) *parking space; and*
- (v) *residential amenity space.*

2. PERMITTED USES

Notwithstanding the uses permitted in the RA zone by Section 7(1)(f) of Zoning Bylaw No. 438-86, as amended, only the uses listed in subsection (d) below and accessory uses thereto are permitted within the lands zoned RA and located within the heavy lines on Map 1 to this exception, 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.”.

(d) The following is the chart:

	Acc.	RA
(a) RESIDENTIAL USES		
(i) HOUSING COMPRISING DWELLING UNITS		
Any of the uses permitted in a RA district in section 7(1)(f)(a)(i)	*	Q1
<i>Artist live/work studio</i>	*	Q1
(ii) ASSOCIATED / ACCESSORY RESIDENTIAL USES		
Any of the uses permitted in a RA district in section (7)(1)(f)(a)(iii)	*	P
(b) NON-RESIDENTIAL USES		
(i) COMMUNITY SERVICES, CULTURAL AND ARTS FACILITIES		
<i>municipal community centre</i>	*	Q5
<i>performing arts studio</i>	*	Q5
<i>charitable institution</i>	*	Q3,
<i>non-profit institution</i>	*	Q5
<i>concert hall</i>	*	Q5
		Q5
(ii) GENERAL INSTITUTIONS		
<i>private academic, philanthropic or religious school</i>	*	Q5
vocational school	*	Q5
(iii) RETAIL AND SERVICE SHOPS		
Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iv) except		Q1, Q2, Q5
A. an <i>entertainment facility</i> is not permitted; and		
B. a <i>courier service</i> is not permitted		
(iv) WORKSHOPS AND STUDIOS		
<i>Artist's or photographer's studio</i>	*	Q5
<i>custom workshop</i>	*	Q5
<i>designer's studio</i>	*	Q5
<i>performing arts studio</i>	*	Q5
<i>software, design and development establishment</i>	*	Q5
(v) OFFICES		
Any of the uses permitted in a RA district in section (7)(1)(f)(b)(vi)	*	Q5

(vi)	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
(vii)	MISCELLANEOUS USES		
	<i>Commercial school</i>	*	Q5
	<i>Trade school</i>	*	Q5

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*.
 - (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.
3. 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.

4. A *parking stacker* is permitted, provided:
 - (i) it is *accessory*; and
 - (ii) it is located within a building.
5. No uses or combination of uses permitted by Section 2.d)(b) (i), (ii), (iii), (iv), (v) and (vii) of this by-law, with the exception of *affordable artist's or photographer's studio, affordable performing arts studio, affordable designer's studios*, shall exceed a total *non-residential gross floor area* of 521 square metres.

3. NON-RESIDENTIAL USES

1. A minimum *non-residential gross floor area* of 3,750 square metres shall be provided in *Building A*. 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(d)(b)(vi) of this exception under the heading "Automobile-Related Uses";
 - (b) *bicycle parking spaces*; and
 - (c) *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 Abell Street for any purpose unless:
 - (i) at least 60 percent of the aggregate width of any building facade facing onto Abell Street is used for *street-related retail and service uses* and/or for the purpose of an *artist live/work studio, 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;

- (ii) there shall be at least one entry door every 15 metres at *grade* along the portion of the building described in 1.(i) above;
- (iii) 80% of 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; 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 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 and/or dashed 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. a stair tower and/or elevator overrun and/or machine room enclosure, 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 stair tower, elevator overrun and/or mechanical equipment enclosure and any associated guardrails are located within the areas outlined by dashed lines and identified as “Area of Limited Mechanical Equipment”

- on Map 2; and
 - iii. the stair tower, elevator overrun and/or mechanical equipment enclosure shall cover no more than 50% of the area outlined by dashed lines and identified as “Area of Limited Mechanical Equipment” on Map 2.
 - (iv) No building or structure shall be erected which does not have:
 - a. a minimum setback of 2.0 metres on the north side of *Building A* and the northernmost 58 metres of the east side of *Building A*, at a *height* between 13 metres and 17.7 metres; and
 - b. a minimum setback of 2.0 metres on all sides of *Building B* at a height between 11 metres and 15.1 metres.
 - (v) The maximum *floor plate* for the portion of *Building A* at a *height* above 29.5 metres is 1200 square metres.
 - (vi) No person shall erect or use a building or structure any part of which is located closer than 11 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, excluding recesses up to 1.5 m deep for doors.
 - (vii) The maximum number of storeys shall be:
 - a. for the northernmost 39 m of *Building A*, 8 storeys; and
 - b. below the first setback of *Building B*, 4 storeys.
- 2. Notwithstanding paragraph 5.1 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:
 - (i) stairs (excluding stairs providing access to underground areas), landscape features, and wheelchair ramps; and

(ii) 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 at that height	0.45 metres from the wall to which it is attached	
B. uncovered platform that is <i>landscaped open space</i> and is less than 1.2m above finished ground level	Beyond the heavy lines on the Map 2 at that height	2.5 metres from the wall to which it is attached	(I) not permitted in <i>publicly accessible landscaped open space</i> as shown on Map 3
C. porch (covered platform) that is <i>landscaped open space</i> and is less than 1.2 m above finished ground level	Beyond the heavy lines on the Map 2 at that height	2.5 metres from the wall to which it is attached	(I) not permitted in <i>publicly accessible landscaped open space</i> ;
D. canopy	Beyond the heavy lines on Map 2 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 Map 2 at that height	2.5 metres from the wall or the extent of the roof of the storey immediately below, whichever is greater	(I) height of fence or safety railing not to exceed 1.2 metres. (II) not permitted above a height of 29.5 m on <i>Building A</i> outside of the “Area of Limited Mechanical Equipment” indicated on Map 2 (III) not permitted above a height of 59.5 m on <i>Building B</i>

F. balconies (<i>Building A</i>)	Beyond the heavy lines on Map 2 at that height	(I) For balconies located on the first five floors, not more than 0.45 m from the wall to which it is attached; (II) For balconies located at the 6th storey and above, not more than 0.75 m from the wall to which it is attached	(I) combined width of all projecting balconies on a façade at a given <i>storey</i> not to exceed 50% of the length of that façade at that storey
G. balconies (<i>Building B</i>)	Beyond the heavy lines on Map 2 at that height	(I) For balconies located on the first four floors, not more than 0.45 m from the wall to which it is attached; (II) For balconies located at the 5th storey and above, not more than 0.75 m from the wall to which it is attached	(I) combined width of all projecting balconies on a façade at a given <i>storey</i> not to exceed 50% of the length of that façade at that storey

6. LANDSCAPED OPEN SPACE

1. *Publicly accessible landscaped open space* and *publicly accessible open space* is required in the locations indicated on Map 3.
2. A minimum of 75% *soft landscaping* shall be provided within the *publicly accessible landscaped open space* indicated on Map 3.

7. PARKING

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>artist live/work studio</i>	0.1 per unit

- (ii) notwithstanding (i) above, only 0.1 *parking spaces* per unit shall be required for the first twenty (20) *live/work units*.
- (iii) a minimum of 0.12 *parking spaces* per dwelling unit, excluding *affordable artists live-work studio* and the first 20 *live-work units* 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 portions of the buildings;
 - b. be equally available to visitors of all residents, excluding *affordable artists live-work studio* and the first 20 *live-work units*; 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.
- (iv) pursuant to (i) above, up to 10% of the *parking spaces* required by subsection (i) may be *small car parking spaces*;
- (v) for each car-share parking space provided on the *lot*, the minimum resident parking required by (i) above shall be reduced by 5 *parking spaces*. The maximum reduction permitted by this means shall be limited to no more than 12.5% of the required resident parking. 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 residential visitor *parking spaces* 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 resident *parking spaces*, 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 2,000 sq.m. 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.

8. LOADING

1. 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 lands municipally known as 48 Abell Street to be shared with the uses permitted on the 150 Sudbury Street lands.

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:

- (i) a minimum of 557 square metres of indoor *residential amenity space* shall be provided for up to 400 *dwelling units*, of which a minimum of 100 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; and
- (ii) for each additional *dwelling unit* above 400 *dwelling units*, indoor *residential amenity space* shall be provided at a rate of 1.39 square metres per *dwelling unit*.

10. HOUSING MIX

1. A minimum of 17 percent of all residential *dwelling units*, excluding any *artist live/work studio* and the first 20 *live-work units*, shall have 2 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) B: 832-00.
2. This exception will prevail over any provision of any other exception included in Section 12(2) of By-law No. 438-86, as amended.
3. By-law No. 832-2000 is hereby repealed.

12. IMPLEMENTATION

1. No person shall erect or use any building or structure unless the development includes loading and vehicular access which is designed to be shared with the site known in 2007 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 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 registered against the title to the *lot* as a first charge;

- (ii) the owner shall enter into an agreement to sell a minimum of 5202 sq.m. (56,000 sq. ft.) of total non-residential floor area fronting on Abell Street to the City, or an art-space management organization acceptable to the City, at \$150.00 per square foot of non-residential gross floor area. There will be no indexing or increases applicable to this non-residential gross floor area price. This space may be used for *artists live/work studios*, *affordable work studios*, or galleries. In the case of *artists live/work studios*, the space will include kitchens with four appliances and bathrooms;
- (iii) provide a cash-in-lieu of park land contribution equal to 5% of the value of the site payable in accordance with City standards;
- (iv) 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;
- (v) 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;
- (vi) 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 Abell Street;
- (vii) 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 to the satisfaction of the Executive Director of Technical Services;
- (viii) the owner shall register on title of the lot the Agreement dated November 16, 2006, as amended, between Landmark Developments Inc., Greater Toronto Transit Authority and Canadian National Railway Company; and
- (ix) the owner shall enter into an agreement with the City or other affected party to provide access to the 48 Abell Street lands through the 150 Sudbury Street lands.

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 an agreement dated November 16, 2006, as amended, between Landmark Developments 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 November 16, 2006, as amended, with Greater Toronto Transit Authority and Canadian National Railway Company;

(v) Publicly Accessible Landscaped Open Space

prior to condominium registration, the owner shall authorize and permit public access to the publicly accessible landscaped open space 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) Integrated Landscaping and Connectivity

a. the owner shall provide for integrated landscaping with the site known municipally in 2007 as 48 Abell Street, to the satisfaction of the City; and

b. the owner shall provide for integrated bicycle and pedestrian connectivity with the site known municipally in 2007 as 48 Abell Street and the Sudbury Street extension, to the satisfaction of the City.

(viii) 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;

(ix) Soil remediation

a. the owner shall remediate the lands for the Abell Street extension referred to in Section 12(2) of this exception, if required, prior to conveyance and in accordance with City and Ministry of Environment Standards; and

b. the owner shall remediate the lands for the extension of Sudbury Street referred to in Section 12(2) of this exception to City and Ministry of the Environment standards prior to the conveyance, if necessary.

(x) Development Charge Credits

- a. provided the Sudbury Street extension is constructed as outlined in Section 12(2) of this exception, the City will provide the owner with Development Charge Credits. The Development Charge Credits for roads will be limited to the lesser of the applicable portion of the Development Charge or the actual cost of the City's share of construction costs applicable to the portion of the extension of Sudbury Street forming part of the 150 Sudbury Street lands; and
- b. provided the servicing for the portion of the Sudbury Street extension which is within the 150 Sudbury Street lands meets the minimum sizes required for Development Charge Credits, the City will support a request for Development Charge Credits. Development charge credits for servicing will be limited to the lesser of the applicable portion of the Development Charge or the actual cost of the construction of the servicing. The amount of Development Charge Credits (roads and servicing) will be subject to approval of the Executive Director, Technical Services, acting reasonably.

(xi) Abell Street Construction Costs

the owner shall pay 50% of the construction costs of that portion of the Abell Street extension which is adjacent to the 150 Sudbury Street site by the owner. The City holds a Letter of Credit in the amount of \$110,000 from a previous rezoning on the same site. These funds will be credited to the owner of the 150 Sudbury Street lands towards the construction of the Abell Street Extension;

(xii) Easements on open space

- a. the owner shall secure a surface easement in favour of the City of Toronto, satisfactory to the Chief Planner and Executive Director, City Planning Division, acting reasonably, for the lands designated publicly accessible landscaped open space and publicly accessible open space on Map 3 attached hereto. Activities to be permitted within the lands designated publicly accessible landscaped open space and publicly accessible open space on Map 3 attached hereto shall be consistent

with uses generally permitted in public parks (without the need for special permits); and

- b. the owner shall provide an easement in favour of the City of Toronto for public access between *Building B* and the lands known municipally as 48 Abell Street to the satisfaction of the Chief Planner and Executive Director, City Planning Division.

(xiii) Informal Loading Space

the owner will use its best efforts to provide, in conjunction and co-operation with the lands known municipally as 48 Abell Street, a shared loading area for residents and/or tenants in the publicly accessible open space area to the north of *Building A*;

(xiv) Design of publicly accessible open spaces

the owner shall provide public access (including barrier free options) between the 150 Sudbury Street lands and the 48 Abell Street lands across the publicly accessible open space and publicly accessible landscaped open space. The design and grading of the open spaces on both properties will be coordinated;

(xv) Cash contribution

- a. the owner shall provide a cash contribution of \$1,250,000 for local arts and community infrastructure investment, of which up to \$250,000 may be used for costs related to the relocation of the Public Health offices from 1115 Queen Street West. Payment will be secured by a letter of credit lodged with the City no later than the issuance of the designated building permit for the project. The letter of Credit will be indexed to the construction price index starting from June 30, 2009; and

- b. should the development outlined in the settlement dated October 23, 2007 not proceed and, for any reason, should the owner not provide or should the owner request the return of the cash contribution, the parkland contribution for any other development on the site would be determined based on the size of the site in 2006 (10,002 square metres).

14. DEFINITIONS

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

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

affordable shall mean, in the context of work-only artist studios, that the work space will be rented substantially below market rent for commercial/industrial spaces, to the satisfaction of the Executive Director, Toronto Culture, in consultation with the Director, Business Development and Retention;

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 0.8 times the CMHC average market rent for dwelling units of similar size in the City of Toronto 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 the average elevation of the sidewalk or planned elevation of the sidewalk on Sudbury Street adjacent to the *lot*;

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;

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*;

publicly accessible open space shall mean space which is open and accessible to the public at all times and includes driveways and loading areas;

publicly accessible landscaped open space shall mean *landscaped open space* which is open and accessible to the public at all times;

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.

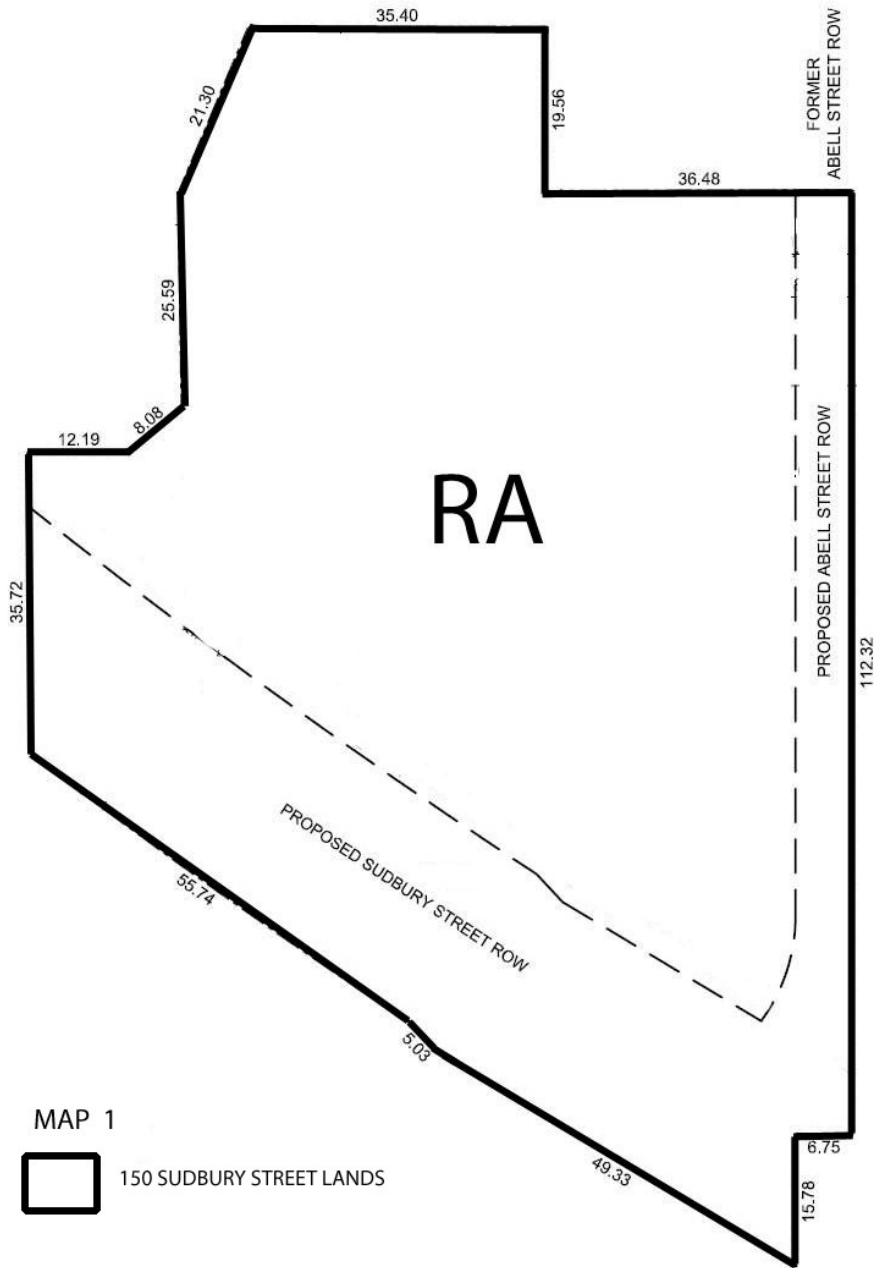
soft landscaping shall mean an open, unobstructed area that supports the growth of vegetation such as grass, trees, shrubs, flowers or other plants;

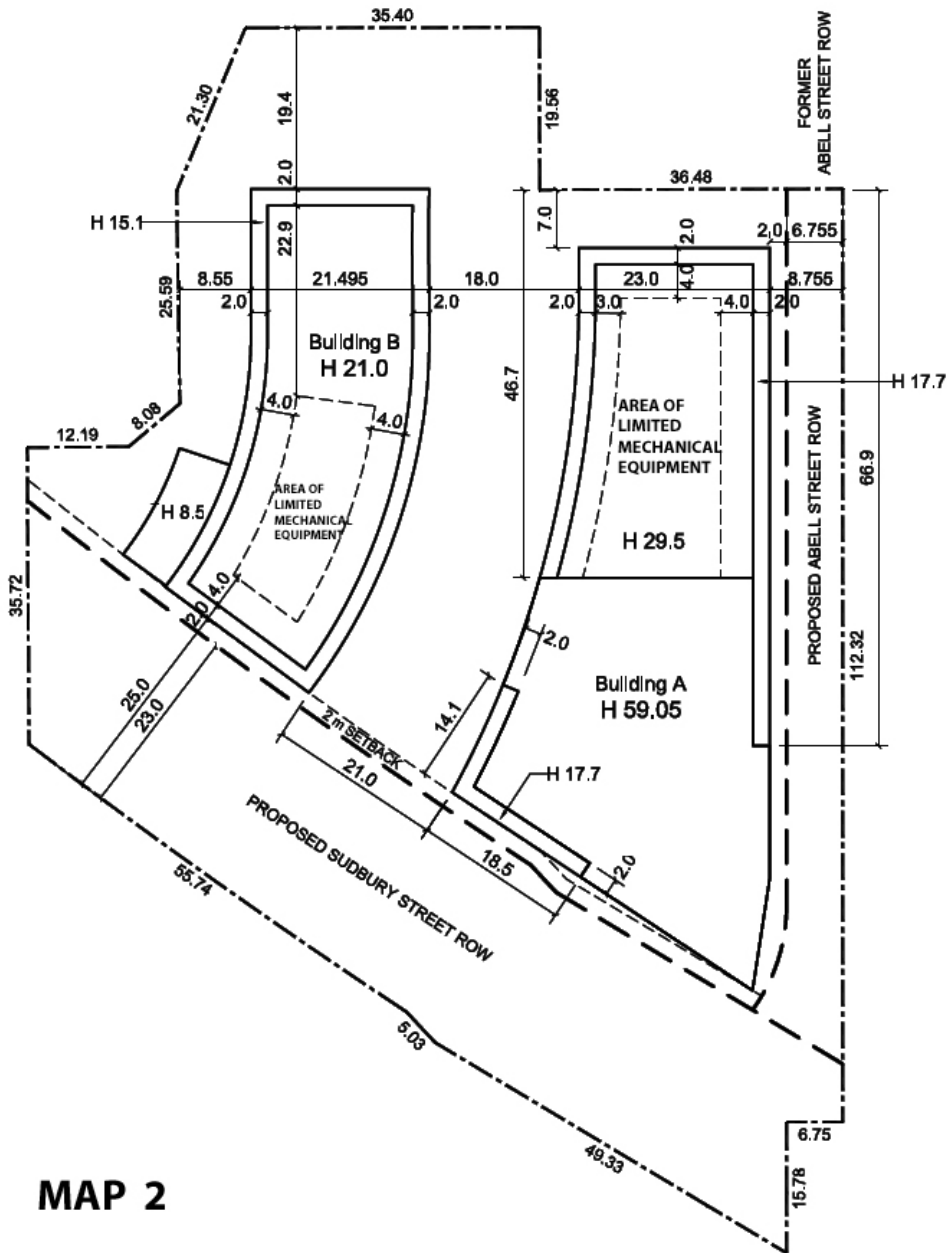
small car parking space shall mean a *parking space* having a minimum unobstructed area 2.4 metres wide by 5.0 metres long which is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another motor vehicle, except the width of the parking space 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.
- 15. Despite any 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 DECISION/ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON JANUARY 8, 2008 IN BOARD CASE NO. PL051203, PL060087 AND PL060443.





MAP 2

