

# CITY OF TORONTO

## BY-LAW No. 1431-2011(OMB)

### **To amend the General Zoning By-law No. 438-86, as amended, of the former City of Toronto with respect to the lands municipally known as 2 - 6 Lisgar Street.**

WHEREAS the Ontario Municipal Board, by way of an Order issued on May 6, 2011 determined to amend the former City of Toronto Zoning By-law No. 438-86, as amended, with respect to lands known municipally, in the year 2011, as 2 – 6 Lisgar 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 2 - 6 Lisgar 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 and G 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 2 - 6 Lisgar 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 By-law 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:

A	(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
		<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
	(iii)	RETAIL AND SERVICE SHOPS		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(iv) except A. an <i>entertainment facility</i> is not permitted; and B. a <i>courier service</i> is not permitted		Q1, Q2, Q4
	(iv)	WORKSHOPS AND STUDIOS		
		<i>Artist's or photographer's studio</i>	*	Q4
		<i>custom workshop</i>	*	Q4
		<i>designer's studio</i>	*	Q4
		<i>performing arts studio</i>	*	Q4
		<i>software, design and development establishment</i>	*	Q4
	(v)	OFFICES		
		Any of the uses permitted in a RA district in section (7)(1)(f)(b)(vi)	*	Q4
	(vi)	AUTOMOBILE RELATED USES		
		<i>Parking area</i>	*	P
		<i>Parking garage</i>	*	P
		<i>Parking stacker</i>	*	Q3
		<i>Commercial Parking Garage</i>	*	Q5
		<i>Private garage</i>	*	P
		<i>Taxicab stand or station</i>	*	P
		<i>Car-share parking space</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 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. *A parking stacker* is permitted, provided:
  - (i) it is *accessory*; and
  - (ii) it is located within a building.
4. No uses or combination of uses permitted by Section 2.d)(a) (iii), (iv), and (v) 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 300 square metres.
5. The *commercial parking garage* shall be operated by the Toronto Parking Authority.

### 3. NON-RESIDENTIAL USES

1. A minimum *non-residential gross floor area* of 0.7 times the area of the *lot*, net of all conveyances, shall be provided in accordance with the following:
  - i. For the purpose of calculating the minimum *non-residential gross floor area*, non-residential uses are as set out in Section 2 (d)(a)9iii)(iv) and (v) of this by-law, a *commercial parking garage*, and

- ii. *Residential gross floor area* of a *live-work unit* shall be permitted to be counted as *non-residential gross floor area* solely for the purpose of meeting the minimum *non-residential gross floor area* requirement of this section.

#### **4. USES AT GRADE**

- 1. No person shall erect or use a building or structure fronting onto Abell Street and Lisgar Street for any purpose unless:
  - (i) at least 60 percent of the aggregate width of any building facade facing onto Abell Street and Lisgar Street is used for the purpose of an *a live-work unit, artist live/work studio, artist's or photographer's studio, custom workshop, performing arts studio or public art gallery* at the main floor level of the building; and
  - (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:
- (a) the maximum height of the top of such elements is no higher than the sum of 4.0 metres and the applicable height limit; and
  - (b) 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.
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	
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	
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.
F. balconies	Beyond the heavy lines on Map 2 at that height	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 storey not to exceed 50% of the length of that façade at that storey

## 6. 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) *artists live/work studio*;
- (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 be provided within the *commercial parking garage* operated by the Toronto Parking Authority;
- (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 4 resident parking spaces. 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 2,000m<sup>2</sup> in which case parking for non-residential uses shall be required at a rate of 1 *parking space* per 100m<sup>2</sup> of *non-residential gross floor area*.
- 3. The minimum requirement for bicycle parking shall be as described in Section 4(13).

## **7. 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.

## **8. SITE SPECIFIC EXCEPTIONS**

- 1. The following site specific exceptions shall be deleted from the Index of Exceptions for 2 – 6 Lisgar Street:
  - i. Section 12 (1) 287;
  - ii. Section 12 (1) 290; and
  - iii. Section 12 (2) 270.
- 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.



**9. IMPLEMENTATION**

1. 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 11 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 provide a parkland contribution;
  - (iii) the owner shall convey for nominal consideration and at no cost to the City any lands that are required for the extension of Abell Street;
  - (iv) 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; and
  - (v) the owner shall register on title of the *lot* the Agreement(s) outlined in Section 10(3)(ii) and (iii) of this by-law.

**10. SECTION 37 OF THE *PLANNING ACT***

Pursuant to Section 37 of the *Planning Act*, the heights and density of the development contemplated by this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the owner of the lot, of the following facilities, services and matters to the City at the owner's sole expense and in accordance with and subject to the agreement referred to herein:

1. the amount of \$1,000,000 payable to the City of Toronto prior to the issuance of any above grade building permits for the development of the lot, the amount to be used for one or more of the following:
  - a. affordable live/work studios and/or affordable artist work studios for artists owned and operated by the City or by a not-for-profit arts management organization approved by the Chief Planner in consultation with the Executive Director, Toronto Culture;
  - b. the design and/or construction of Lisgar Park;

- c. 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;
- d. public art in the immediate vicinity of this site;

2. Parkland Contribution

The owner shall convey a minimum of 260m<sup>2</sup> of land for parkland dedication purposes. The lands are located at the northern limit of the property line, and will be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easement, unless the easement, encumbrance or encroachment is otherwise approved by the General Manager, Parks, Forestry and Recreation.

For the land that is proposed to be conveyed to the City, the owner will be responsible for an environmental assessment of the lands and any associated costs or remediation works required as a result of that assessment to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Executive Director of Technical Services.

To fully meet the parkland dedication requirements, a cash-in-lieu contribution for parkland dedication will be required for the shortfall in dedication.

3. The following matters are also to be secured in the Section 37 agreement as a matter of Legal convenience:

(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) Crash Mitigation Measures

prior to the registration of the condominium, the owner shall construct, or cause another party to construct, crash mitigation measures, if required, related to the rail corridor, as set out in an agreement between the owner of the *lot* and the Greater Toronto Transit Authority (Metrolinx) and Canadian National Railway Company;

## (iii) Noise and Vibration

prior to the registration of the condominium, the owner shall construct, or cause another party to construct, any works required by the agreement between the owner of the *lot* and the Greater Toronto Transit Authority and Canadian National Railway Company;

## (iv) 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;

## (v) 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;

## (vi) Soil remediation

the owner shall remediate the lands for the Abell Street extension, if required, prior to conveyance and in accordance with City and Ministry of Environment Standards;

## (vii) 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 2 - 6 Lisgar Street site; and

## (viii) Building Materials and Details

the incorporation, in the construction of the building, of exterior materials to the satisfaction of the Chief Planner and Executive Director, City Planning Division. The Owner shall include 1:50 scale drawings for the materials used to screen the mechanical equipment, the first to fourth storey portions of the elevations with building materials labelled. The drawings will have a sufficient level of detail to illustrate how the building will be perceived by the pedestrian.

4. the payments required in clause (1) herein, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Ontario Municipal Board, from the date of the Board order approving the by-laws, to the date of submission of the funds by the owner to the City.
5. the payments required in clause (1) herein shall be paid prior to the issuance of the first above-grade building permit to permit construction of a building or a portion of a building on the lot.
6. the owner of the lands enters 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 11(1) (2) and (3) herein and registers such agreement against title to the lot as a first charge, all to the satisfaction of the City Solicitor.

## 11. 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 *grade*, *height*, *parking space* and *residential amenity space*.

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

*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;

*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;

*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 a clear area that:

- a. has minimum dimensions of 5.2 m in length and 2.9 m in width, except that the width of a *parking space* shall be increased to 3.2 m if both sides of the parking space have an *obstruction*;
- b. is accessed by a drive aisle that has a minimum width of 7.0 m; and
- c. is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another vehicle.

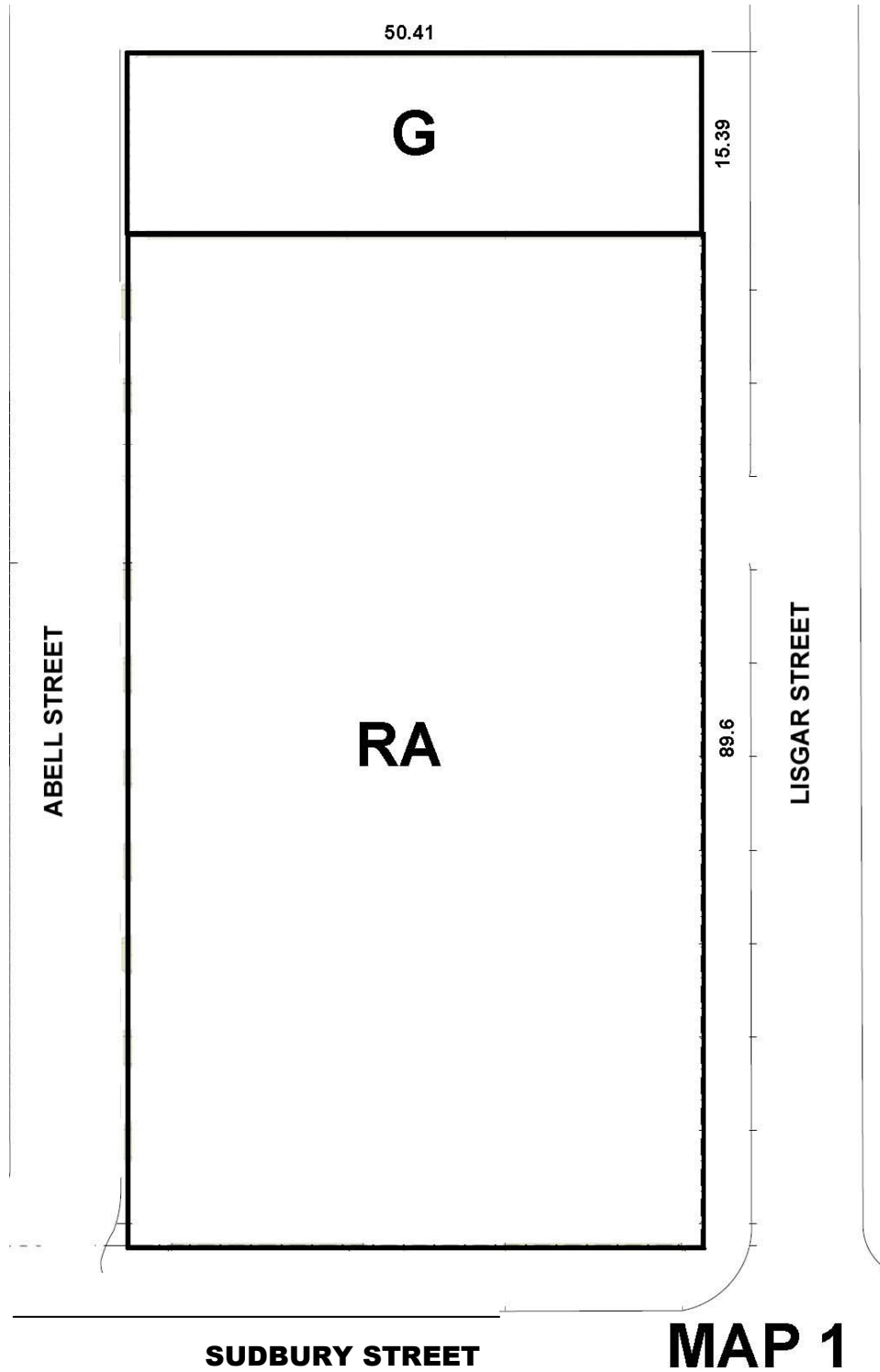
*small-car parking space* shall mean a clear area that:


- a. has a minimum dimension of 5.2 m in length by 2.75 m in width, except that the width of the *small-car parking space* shall be increased to 3.1 m if both sides of the *small-car parking space* have an *obstruction*;
- b. is accessed by a drive aisle that has a minimum width of 7.0 m; and
- c. is readily accessible at all times for the parking and removal of a motor vehicle without the necessity of moving another vehicle.

For the purposes of this by-law, *obstruction* shall mean any part of a fixed object such as a wall, column, bollard, fence, or pipe situated within 0.3 m of the side of the *parking space*, measured at right angles, and more than 1.0 metres from the front or rear of the *parking space*.

- 12.** 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 has occurred.

PURSUANT TO THE ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD  
ISSUED ON MAY 6, 2011 IN BOARD FILE NO. PL081527.



 2-6 Lisgar Street

