

2 - 6 Lisgar Street – Zoning Amendment Application – Request for Direction Report

Date:	January 18, 2011
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 18 – Davenport
Reference Number:	07-268078 STE 18 OZ

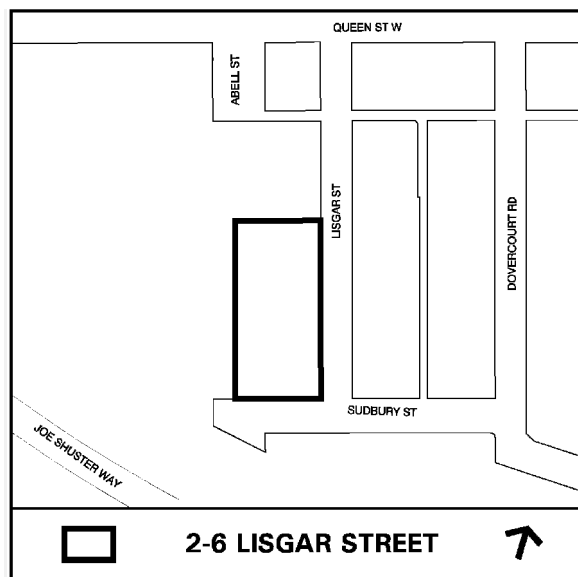
SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The purpose of this report is to request direction from City Council regarding the pending Ontario Municipal Board hearing on the application for a Zoning By-law Amendment application at 2-6 Lisgar Street. A hearing has been set for 2 days, commencing on April 11, 2011.

A Request for Directions report, dated December 10, 2008 from the Acting Director, Community Planning, Toronto and East York District was before City Council at its meeting of January 27 and 28, 2009. That report was for a 15-storey mixed use building at 2-6 Lisgar Street, which would have contained a large commercial use with smaller retail and office uses at grade, and 300 residential dwelling units above.

A revised application was submitted to the City on November 17, 2010. The revised application proposes a building with 2 towers with heights of 14-storeys and 16-storeys, containing a total of 479 residential dwelling units at 2-6 Lisgar Street. The application proposes five (5) levels of underground parking, of which 100 parking



spaces will be allocated for a Toronto Parking Authority garage.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor and necessary City staff to attend the Ontario Municipal board hearing in support of the position recommended in this report.
2. City Council authorize the City Solicitor and necessary City staff to attend at the Ontario Municipal Board hearing in support of the draft Zoning By-law Amendment, substantially in the form attached as Attachment 8 to the January 18, 2011 report from the Director, Community Planning, Toronto and East York District.
3. City Council authorize the Chief Planner and Executive Director, City Planning Division, in consultation with the City Solicitor, to make such technical and stylistic changes to the draft Zoning By-law Amendment as Attachments No. 8, as well as other modifications considered appropriate and consistent with the objectives outlined in this report dated January 18, 2011 from the Director, Community Planning, Toronto and East York with respect to the proposed zoning and implementation of the applicable Toronto Official Plan policies.
4. City Council authorize the Chief Planner and Executive Director, City Planning Division, in consultation with the City Solicitor, to prepare and support at the Ontario Municipal Board, a site specific exception to the new Zoning By-law No. 1156-2010 to reflect the same development permissions that may be granted through the draft Zoning By-law Amendment contained in Attachment No. 8 of this report.
5. City Council authorize staff to report directly to March 8, 2011 City Council regarding benefits secured under Section 37 of the Planning Act, to be included in the draft Zoning By-law Amendment following further review.
6. City Council authorize the City Solicitor to request that the Ontario Municipal Board withhold any Orders approving the proposed Zoning By-law Amendments until such time as the applicant has executed the Section 37 agreement.
7. City Council authorize staff to report directly to March 8, 2011 City Council should the application and proposed Zoning By-law Amendments require revisions, following review by various City Divisions and from comments which may arise from the Community Consultation Meeting.

8. Community Council direct Community Planning Staff to schedule a community consultation meeting for the lands at 2-6 Lisgar Street together with the Ward Councillor prior to March 4, 2011.
9. Notice for the community consultation meeting be given to landowners and residents within 120 metres of the site.
10. City Council direct that prior to the issuance of any building permit, a minimum of 260 square metres of land at the north limit of the property be conveyed to the City for parkland purposes. The land is to be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless the easement, encumbrance or encroachment is otherwise approved by the General Manager, Parks, Forestry and Recreation. The owner also 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.
11. City Council direct the owner to pay the costs of the transfer of the parkland, and the preparation and registration of all relevant documents. Prior to dedication, the Owner be required to provide, to the satisfaction of the City Solicitor, all legal descriptions and applicable reference plans of survey for the new parkland.
12. Prior to the issuance of any building permit, the owner be required to pay the City cash-in-lieu for the value of the base park improvements for the 260 square metres to be dedicated to the City for park construction. The estimate of the value of the base park improvements will be to the satisfaction of the General Manager, Parks, Forestry and Recreation.
13. Prior to the issuance of any building permit, the owner be required to enter into a Limiting Distance Agreement with the City regarding Lisgar Park.
14. City Council authorize the City Solicitor and applicable City staff to take all necessary steps to implement the foregoing.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

A Request for Directions report, dated December 10, 2008 from the Acting Director, Community Planning, Toronto and East York District was before City Council at its meeting of January 27 and 28, 2009. At that meeting, City Council adopted the recommendations contained within the report without amendment.

The proposal that was before Council at that time was for a fifteen-storey (50 metre) mixed use building containing 21,978 m² of residential gross floor area and 6,470 m² of non-residential gross floor area, for a total gross floor area of 28,448 m². The overall density of the site was to be 4.8 times the area of the lot, including 1.0 times non-residential density. The non-residential space was proposed to occupy the ground and second floors. The proposal also contained a large grocery store at the north end of the ground floor with smaller retail units at the south end of the building and office space on the second floor.

Parking for 310 vehicles was to be provided in a 3-level below grade parking garage with ingress from Lisgar Street and egress to Sudbury Street. Loading was located on the ground floor off a service lane which ran in an east/west direction through the site. Amenity space was proposed to be provided on the third floor, with access to the roof of the second storey, and on the roof of the building.

Proposal

The applicant submitted a revised Zoning By-law Amendment Application to the City on November 17, 2010. Various City Divisions are reviewing the applicant's re-submission.

The applicants revised proposal now consists of a residential condominium building consisting of a total of 479 dwelling units (including live/work units), with an overall gross floor area of 31,353m², contained within two (2) residential towers on top of a 2-storey base. The towers will be 14-storeys and 16-storeys, and will have overall heights of 44.5 metres and 51.1 metres respectively. The ground floor of the proposal will contain 11 live/work units and 207m² of retail/commercial gross floor area. The second floor is proposed to contain 1,847 m² of gross floor area dedicated to commercial and/or artist studio space. The revised proposal seeks an overall density of 5.28 times the area of the lot.

The applicant also proposes to provide parking for 495 vehicles within 5-levels of underground parking. Of the 495 parking spaces provided, 100 parking spaces will be owned and operated by the Toronto Parking Authority. Access to the underground parking garage is provided via a ramp connecting to the private driveway running east-west through the site.

The applicant is proposing to convey approximately 260 m² of land to the City for parkland purposes as part of this application.

Site and Surrounding Area

The site is 5,940 square metres and is currently occupied by a one and two-storey warehouse building. Development in the vicinity is as follows:

North: north of the proposed park is Postal Station C, which is listed on the Toronto Heritage Properties Inventory. Two to three-storey buildings dominate the north side of Queen Street.

West: a number of sites have recently been granted approvals at the Ontario Municipal Board. These include the following:

Address	Podium Height (in storeys)	Podium Height (in metres)	Overall Height (in storeys)	Maximum Heights (in Metres)
150 Sudbury St.	7	21-23 m	18	59.05 m
48 Abell St.	8	25 m	16 and 14	50.5 and 42 m
1171 Queen St. (Queen St. frontage)	4-6	14-19.7 m	8	29 m
1171 Queen St. (tower portion)	17-19	52-56 m	20	59.5 m

East: a nine-storey residential building and an Ontario Municipal Board approved fourteen-storey (41 metres) residential building at 45 Lisgar Street.

South: Sudbury Street forms the southern edge of the subject site and low scale industrial buildings run along the south side of Sudbury Street.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated *Regeneration Area* in the City of Toronto Official Plan. *Regeneration Areas* are areas of the City with a mix of uses including commercial, residential, live/work, institutional and light industrial. These areas are no longer in productive urban use due to shifts in the local or global economies, but they represent an opportunity to direct growth in the City.

The site is within the Garrison Common North Secondary Plan Area. The Secondary Plan's major objectives include:

- ensuring that new development be integrated into the established city fabric;
- permitting a variety of land uses and densities;
- community services and facilities; and
- a range of housing types in terms of size, type, affordability and tenure.

Within the Secondary Plan, the site is located in Area 2 which has specific policies regarding studies that need to be completed prior to significant development. These include urban design guidelines, an open space plan, a community services strategy, a community improvement strategy, and environmental and transportation policies. City staff have drafted Official Plan and Zoning By-law amendments to address these issues but they are not yet in force. Urban design guidelines have not been prepared.

With respect to urban structure and built form, the Plan calls for new developments to be designed to easily adapt to conversion with particular focus on:

- use of street level spaces;
- ability to facilitate changes in market demand for services and activities;
- ability to provide for a range of dwelling types, with an emphasis on grade-related units that are suitable for households with children; and
- shared open space, parking facilities and servicing areas between development parcels, where possible.

Zoning

The site is zoned I1 D3.0 with a height limit of 18 metres in Zoning By-law 438-86.

Site Specific By-law – West Queen West Triangle

The approved, but not in-force, By-law designates the park portion of the site as “G” and the developable portion as RA(h), with a podium height of 18 metres (6 storeys) and a tower height of 36 metres (12 storeys). The residential portion of the development would only be permitted if the non-residential Zoning By-law requirement of 0.7 times the area of the lot is provided as part of the redevelopment. The (h) related to the RA zone was intended to prevent any residential development on the site until new parkland had been

secured. The City has recently purchased parkland immediately to the north of this site so the (h) will no longer be required.

New Toronto Zoning By-law

At its meeting of August 25-27, 2010, City Council adopted a new, harmonized, Zoning By-law for the City of Toronto. Appeals of By-law 1156-2010 are now before the Ontario Municipal Board. No hearing dates have been set. While the appeals are ongoing, the provisions of the in-force former Zoning by-laws as well as the newly enacted Zoning by-law must be considered. The new Zoning By-law identifies 2 – 6 Lisgar Street as “not part of this By-law”.

Site Plan Control

The lands and development are subject to Site Plan Control. An application for Site Plan Approval has been submitted and is under review. The Site Plan Control Application is also under appeal.

COMMENTS

While City staff and the applicant continue to work together to address site plan control matters associated with the proposal for this site, the application has been appealed to the Ontario Municipal Board. City staff requires direction from City Council for the upcoming Board hearing, which is scheduled to commence on April 11, 2011.

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council’s planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

The proposal before Council conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.

New Toronto Zoning By-law

The new Zoning By-law identifies 2 – 6 Lisgar Street as “not part of this By-law”. However, the intent is to bring these properties into the new Zoning By-law, either site specifically as opportunities arise or by a future comprehensive amendment. Accordingly, staff are also recommending preparation and support at the Ontario Municipal Board of a site specific exception to the new Zoning By-law No. 1156-2010 to

reflect the same development permissions that may be granted through approval of the proposed Zoning By-law Amendment.

Land Use

The applicant is proposing a mixed-use building with small retail units on the ground floor, commercial/artists studios on the second floor and residential units above. This mix of uses is appropriate for this site, and meets the policies outlined in the Official Plan for Regeneration Area.

Height

The proposal that was before City Council at its meeting of January 2009, was for a development which had a overall building height of 50 metres to the top of the residential floors, with a 5.2 metre tall penthouse for mechanical equipment and amenity space on the roof. In that report, staff identified that they were satisfied with the height of the building subject to some revisions.

Since that time, the applicant has revised their proposal, which has subsequently resulted in a modification to the proposed height of the development. The 14-storey tower is proposed to have a building height of 44.5 metres, to top of the residential floor. The 16-storey tower is proposed to have a building height of 51.1 metres to the top of the residential floor. The mechanical penthouses proposed for each tower are approximately 3.5 metres in height. The heights proposed by the applicant are considered acceptable.

Sun and Shadow

The Official Plan contains policies to protect the utility of parks by reducing shadowing. Section 3.1.2 Built Form, Policy 3(e) states:

“New development will be massed to fit harmoniously into its existing and/or planned context, and will limit its impacts on neighbouring streets, parks, open spaces and properties by minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.”

Section 3.2.3 Parks and Open Spaces, Policy 3 states:

“The effects of development from adjacent properties, including additional shadows, noise, traffic and wind on parks and open spaces will be minimized as necessary to preserve their utility.”

This site is located directly south of a new City-owned park. Funds have been secured to construct the park. The park is surrounded by buildings which do and will shadow the park, but the City has tried to minimize those shadows as much as possible.

The revised proposal has two thinner towers located at the east and west limits of the site. This proposal does shadow the southern portion of the park during March and September between the hours of 9:18 through 12:18, moving off the park by 1:18 pm. During the

summer months, there is limited shadow on the southern limit on Lisgar Park, with the shadows from this building moving off the park by 1:18 pm.

Family Units

All of the approved developments in the West Queen West Triangle area have a required percentage of units that must be appropriate for families. Family units are defined as units that have 2 or more bedrooms. The required percentage of 2 or 3 bedroom units on each site in the Triangle varies from 15% to 25%.

On this site, it is required that 20% of the residential units must have at least 2 bedrooms. The applicant proposing to provide 56, 2-bedroom units, which is equivalent to 13.5% of the units. The applicant has been made aware of the requirement to provide at least 20% of family units on the site and is examining ways in which to bring the proposal into compliance with this requirement.

Open Space/Parkland

In the December 10, 2008 Request for Directions Report from the Acting Director, Community Planning, staff identified that on December 5th, 2007 the City of Toronto and the owner reached a settlement relating to the acquisition by the City of a portion of this development site that corresponds roughly to 90 Lisgar Street. The report also identified that the new park will be created by a combination of land purchased from the applicant, land dedicated as parkland by the applicant and land owned by the City presently used as a laneway and pay parking.

The report goes on to state that the mediated settlement calls for a strip of land that totals 200 square metres in area being dedicated in partial fulfillment of the parkland dedication requirements. The parkland requirement will be fully met by payment of cash-in-lieu of parkland for the remainder of the 10% parkland requirement.

The applicant has since increased the amount of land to be conveyed to the City for parkland purposes. Parks Staff have indicated that land dedication requirement for this site would be 5% of the site area. In this case the conveyance would have to be 297m². The applicant is proposing to convey approximately 262 m² at the northern limit of the site for parkland purposes. To fully meet the parkland dedication requirements, a cash-in-lieu contribution for parkland dedication will be required for the shortfall in dedication.

As was identified in the December 2008 report, 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. The owner will also be required to pay the City cash-in-lieu of the value of the base park improvements, for the land dedicated as parkland only and that prior to building permit issuance, the owner shall provide an estimate of the value of the base park condition to the satisfaction of the General Manager, Parks, Forestry and Recreation.

Toronto Green Development Standard

The Green Development Standard contains performance targets and guidelines that relate to site and building design to promote better environmental sustainability of development in Toronto. Tier 1 Compliance is required for development proposals. Staff are currently reviewing the revised application's compliance with the Tier 1 requirements.

Section 37

In the December 10, 2008 Request for Directions Report from the Acting Director, Community Planning contained a number of Section 37 benefits to be secured by City Planning staff. That report recommended the following benefits which can be used towards any or all 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 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; and
- (e) affordable housing.

The Section 37 agreement will also secure the materials used to screen the mechanical equipment, secure the green roof, and 1:50 elevations of the lower levels of the buildings.

Staff recommends the following Section 37 contribution benefits be secured as part of the revised settlement:

- i) A monetary contribution, in an amount agreeable to the Ward Councillor, the Applicant, and the Chief Planner and Executive Director, City Planning, to secure one or more of the following benefits:
 - 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 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; and
 - e. affordable housing.
- ii) Conveyance of a minimum of 260 square metres of land for parkland 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.

- iii) Matters to be secured as a Legal convenience including, but not limited to:
- a. Street Tree Irrigation
 - b. Crash Mitigation Measures
 - c. Noise and Vibration
 - d. Wind Mitigation Measures
 - e. Servicing Requirements
 - f. Soil remediation
 - g. Abell Street Construction Costs
 - h. Building Materials and Details

Conclusion

Staff support the Zoning By-law amendment for this site in principle. However, a number of matters will require resolution as part of the Ontario Municipal Board's consideration of this matter. These include:

1. Section 37 Contributions

Staff will work with the Ward Councillor and the applicant to secure appropriate Section 37 benefits, and a monetary contribution proportionate to the increase in height and density sought by the applicant.

2. Community Consultation

Staff have requested that a Community Consultation meeting be held prior to the commencement of the OMB hearing.

Staff will report directly to the March 8, 2011 City Council Meeting should the application and proposed Amendments require revisions, following review by various City Divisions and from comments which may arise from the Community Consultation Meeting.

CONTACT

Marian Prejel, Senior Planner
Tel. No. (416) 392-9337
Fax No. (416) 392-1330
E-mail: mprejel@toronto.ca

SIGNATURES

Gregg Lintern, MCIP, RPP, Director
Community Planning, Toronto and East York District

(P:\2011\Cluster B\pln\teycc32355182052.doc) - smc

ATTACHMENTS

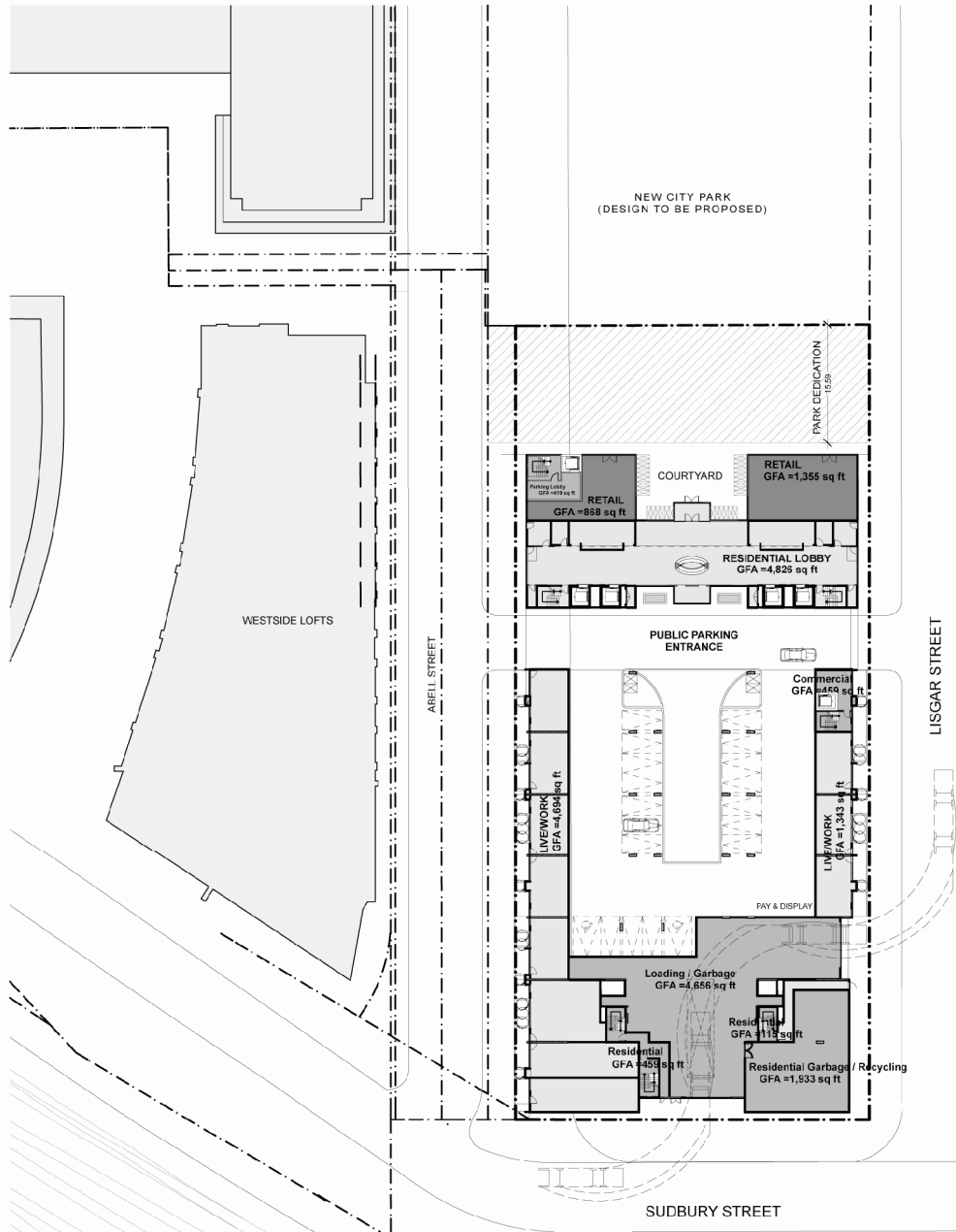
Attachment 1: Site Plan
Attachment 2: South Elevation
Attachment 3: East Elevation
Attachment 4: West Elevation
Attachment 5: North Elevation
Attachment 6: Zoning

Attachment 7: Application Data Sheet

Attachment 8: Draft Zoning By-law Amendment (By-law 438-86)

Attachment 9: Draft Zoning By-law Amendment (By-law 1156-2010)

Attachment 1: Site Plan



Site Plan

Applicant's Submitted Drawing

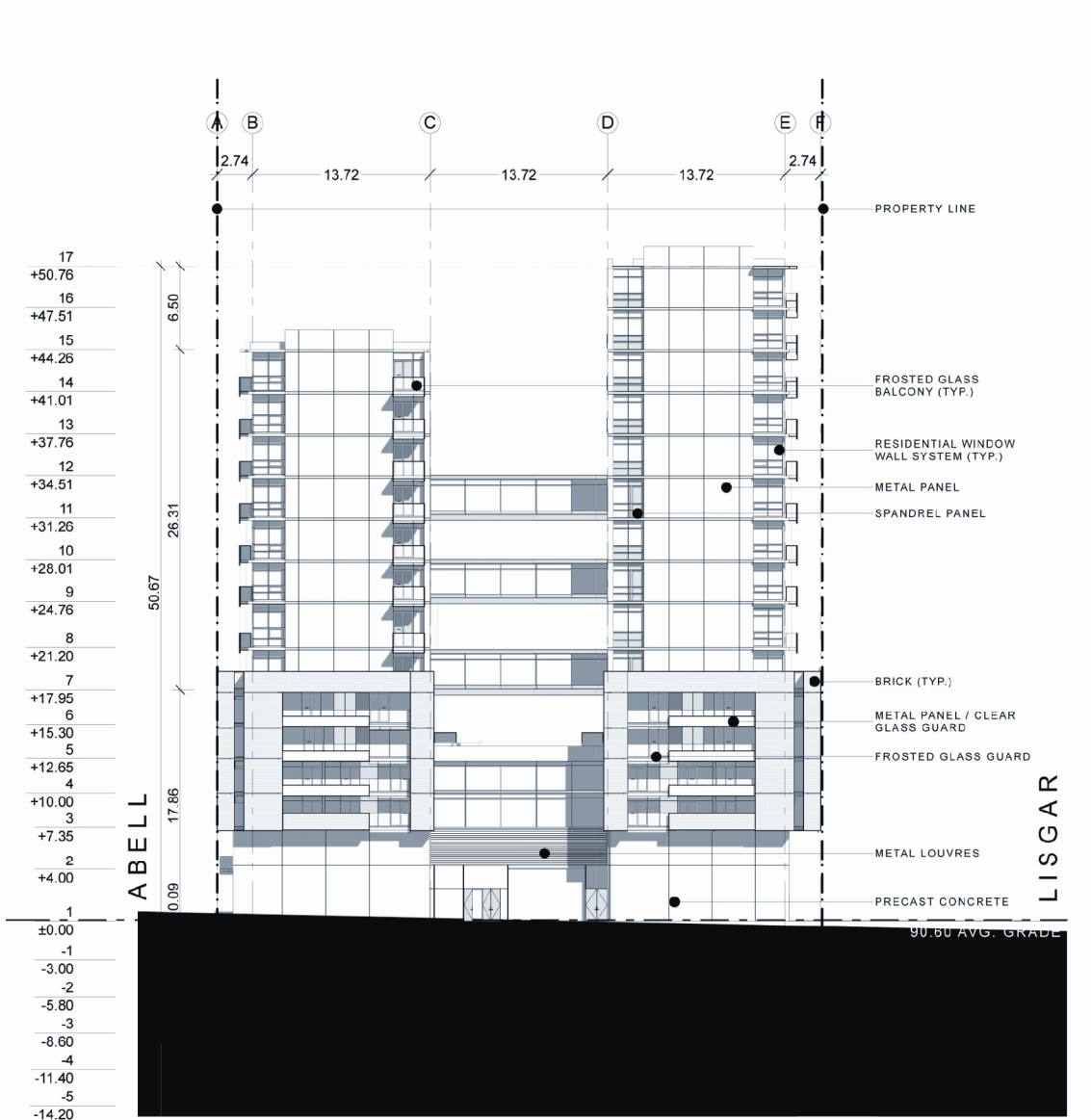
Not to Scale
12/03/10



2 - 6 Lisgar Street

File # 07_2680786

Attachment 2: South Elevation



SOUTH Elevation

Elevations

Applicant's Submitted Drawing

Not to Scale
12/03/10

2 - 6 Lisgar Street

File # 07_2680786

Attachment 3: East Elevation



EAST Elevation

Elevations

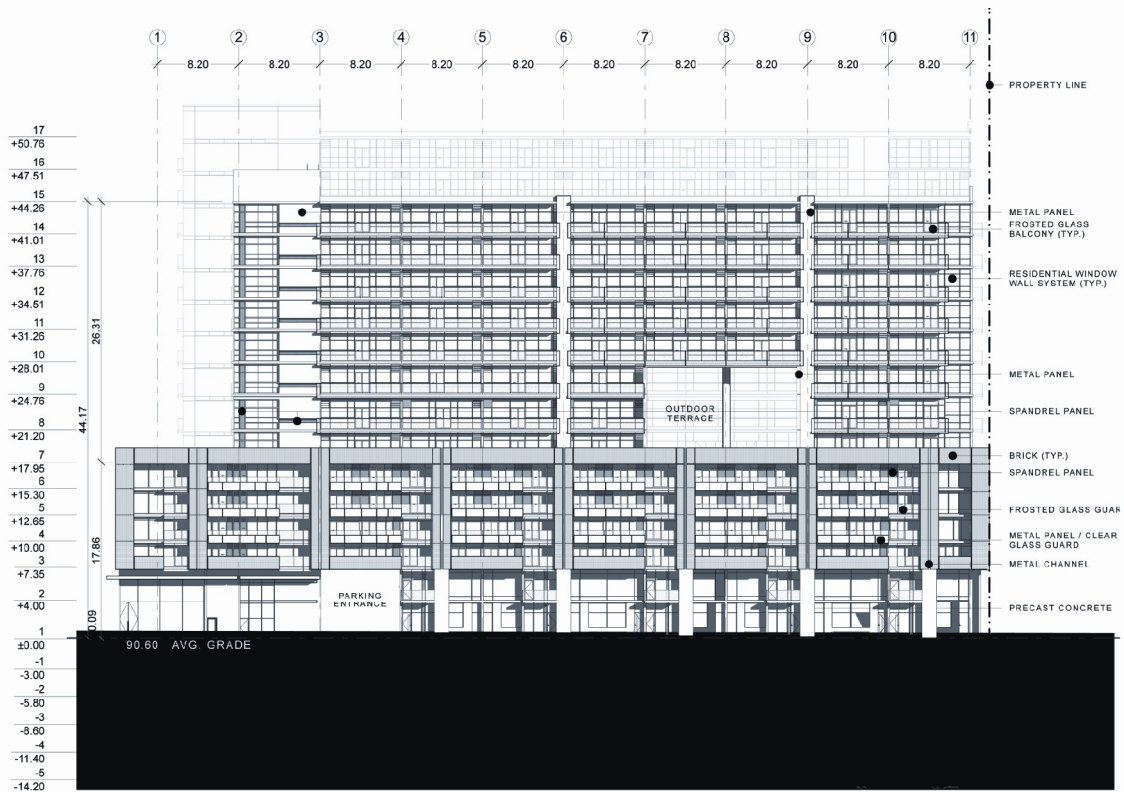
Applicant's Submitted Drawing

Not to Scale
12/03/10

2 - 6 Lisgar Street

File # 07_2680786

Attachment 4: West Elevation



WEST Elevation

Elevations

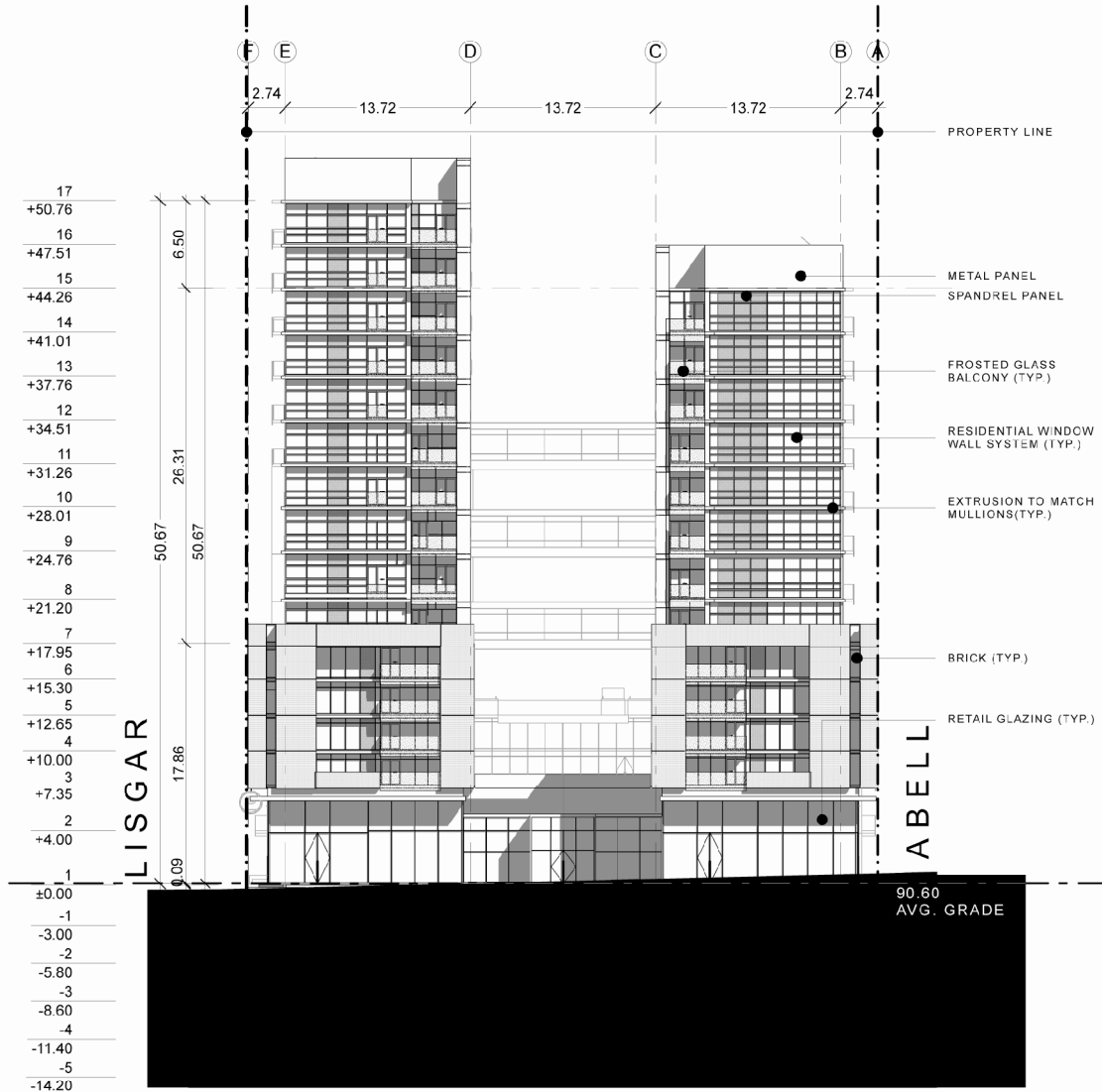
Applicant's Submitted Drawing

Not to Scale
12/03/10

2 - 6 Lisgar Street

File # 07_2680786

Attachment 5: North Elevation



NORTH Elevation

Elevations

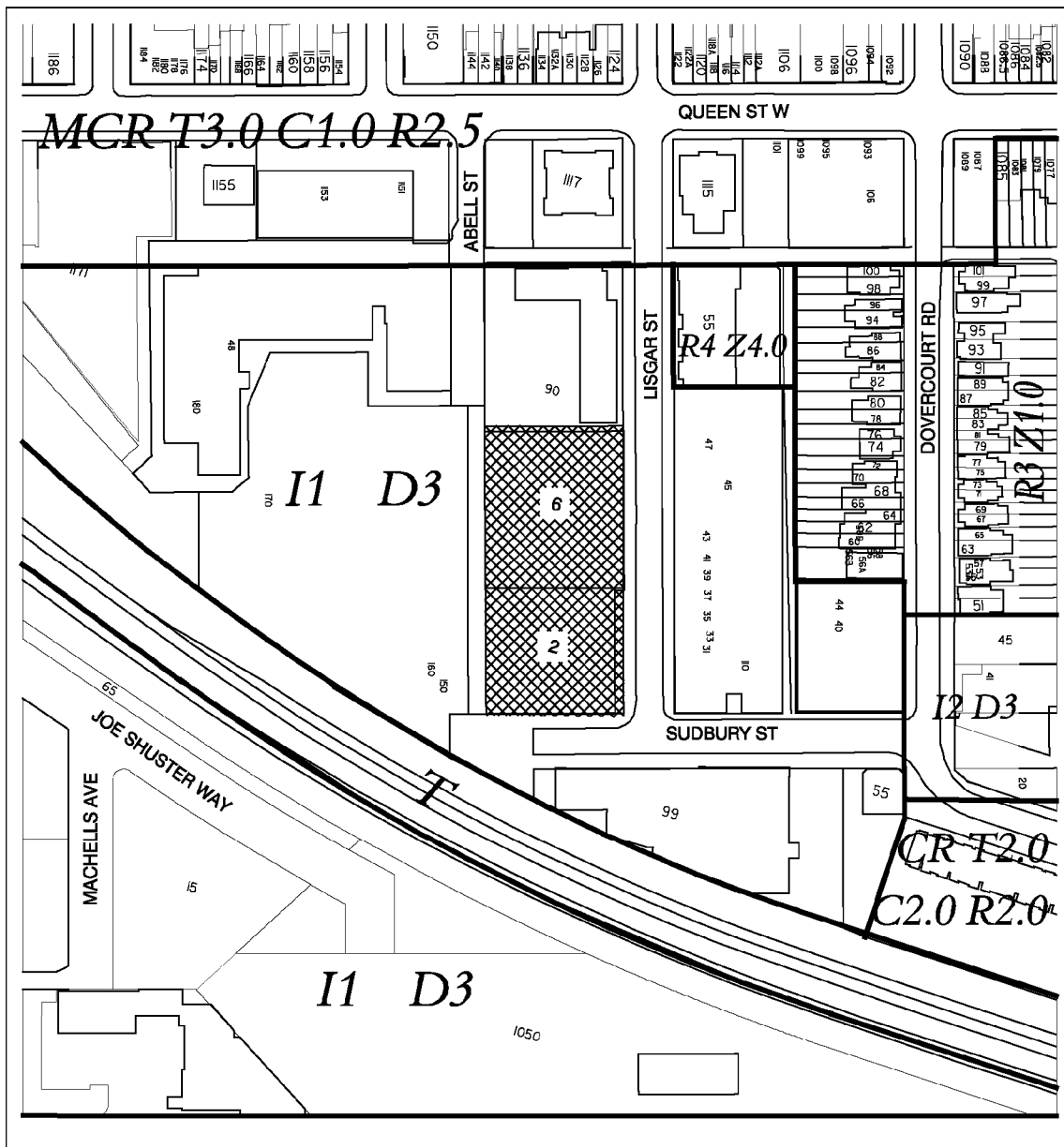
Applicant's Submitted Drawing

Not to Scale
12/03/10

2 - 6 Lisgar Street

File # 07_2680786

Attachment 6: Zoning By-law 486-83



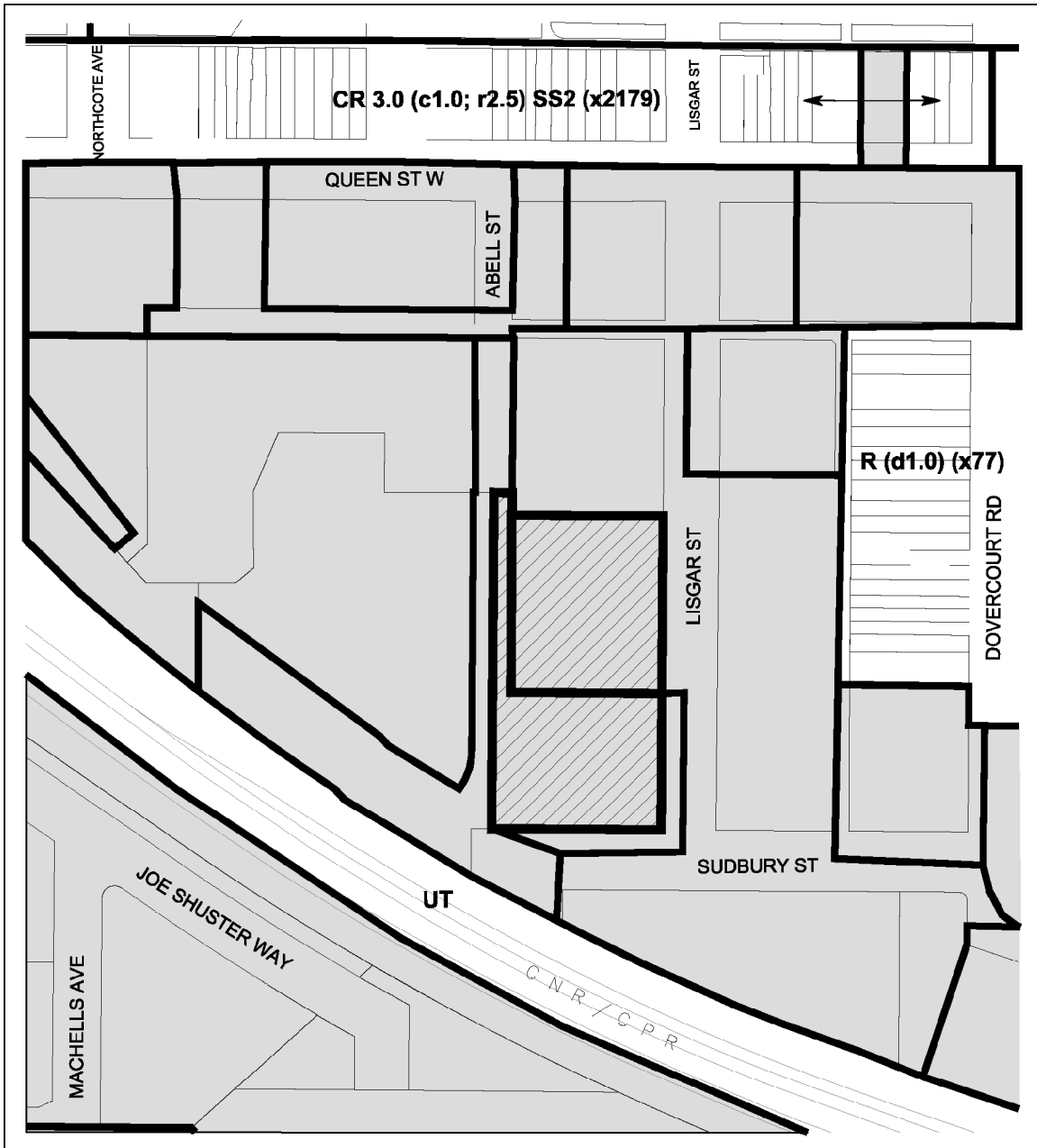
2-6 Lisgar Street
File # 07_268078

R3 Residential District	I1 Industrial District
R4 Residential District	I2 Industrial District
CR Mixed-Use District	T Industrial District
MCR Mixed-Use District	



Not to Scale
Zoning By-law 438-86 as amended
Extracted 11/24/08 - PL


Attachment 7: Zoning By-law 1156-2010




Zoning-City of Toronto By-law 1156-2010

2-6 Lisgar Street

File # 07 268078 0Z

-  Not Part of By-Law 1156-2010
- R** Residential
- CR** Commercial Residential
- UT** Utility and Transportation

 Not to Scale
12/6/10

Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	07 268078 STE 18 OZ
Details	Rezoning, Standard	Application Date:	October 9, 2007
Municipal Address:	2 LISGAR ST		
Location Description:	PL 960 LTS 10 TO 12 PT LT9 PT ABELL ST CLOSED RP66R-17443 PTS 13&14 WITH ROW FPRM 3 100% **GRID S1807		
Project Description:	Proposed fourteen and sixteen storey mixed use buildings with retail on the ground floor, commercial/artist studios on the second floor and residential above. This application has been appealed to the OMB.		

Applicant:	Agent:	Architect:	Owner:
URBANCORP		TACT Design	URBANCORP

PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:
Zoning:	I1 D3	Historical Status:
Height Limit (m):	18	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	5940	Height:	Storeys:	14 & 16
Frontage (m):	56.4		Metres:	44.5 & 2.51.1
Depth (m):	104.9			
Total Ground Floor Area (sq. m):	3142			Total
Total Residential GFA (sq. m):	26957		Parking Spaces:	495
Total Non-Residential GFA (sq. m):	2615		Loading Docks	1
Total GFA (sq. m):	31352			
Lot Coverage Ratio (%):	52.9			
Floor Space Index:	5.28			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Rental, Condo		Above Grade	Below Grade
Rooms: Live/Work units	11	Residential GFA (sq. m):	26957	0
Bachelor:	0	Retail GFA (sq. m):	207	0
1 Bedroom:	412	Office GFA (sq. m):	0	0
2 Bedroom:	56	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	2408	0
Total Units:	479			

CONTACT:	PLANNER NAME:	Marian Prejel, Senior Planner
	TELEPHONE:	(416) 392-9337

Attachment 8: Draft Zoning By-law

**CITY OF TORONTO
BY-LAW No. – 2011 (OMB)**

To amend General Zoning By-law No. 438-86, as amended, of the former City of Toronto respecting lands known municipally in the year 2010 as 2 - 6 Lisgar Street

WHEREAS the Ontario Municipal Board, by way of an Order issued on (insert date) 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 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 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 438-86

1. The following sections of Zoning By-law 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 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 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 maximum *non-residential gross floor area*, exclusive of the commercial parking garage operated by the Toronto Parking Authority, of 300 square metres shall be permitted.

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; and

- (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;
- (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 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;
 - (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 <i>storey</i> 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 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 2,000m² in which case parking for non-residential uses shall be required at a rate of 1 *parking space* per 100m² of *non-residential gross floor area*.
3. The minimum requirement for bicycle parking shall be as described in Section 4(13).

8. LOADING

1. The provisions of Section 4(6) of Zoning By-law 438-86, as amended, shall be satisfied by *one loading space – type G* being provided.

9. 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 438-86, as amended.

10. 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;

- (v) 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.

11. 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 \$(value to be agreed upon by Ward Councillor, Applicant, and Chief Planner and Executive Director, City Planning) 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 260m² 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 dated (*insert date*), as amended, between _____, Greater Toronto Transit Authority 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 dated (*insert date*), as amended, with 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; and

(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.

(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.

12. 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;

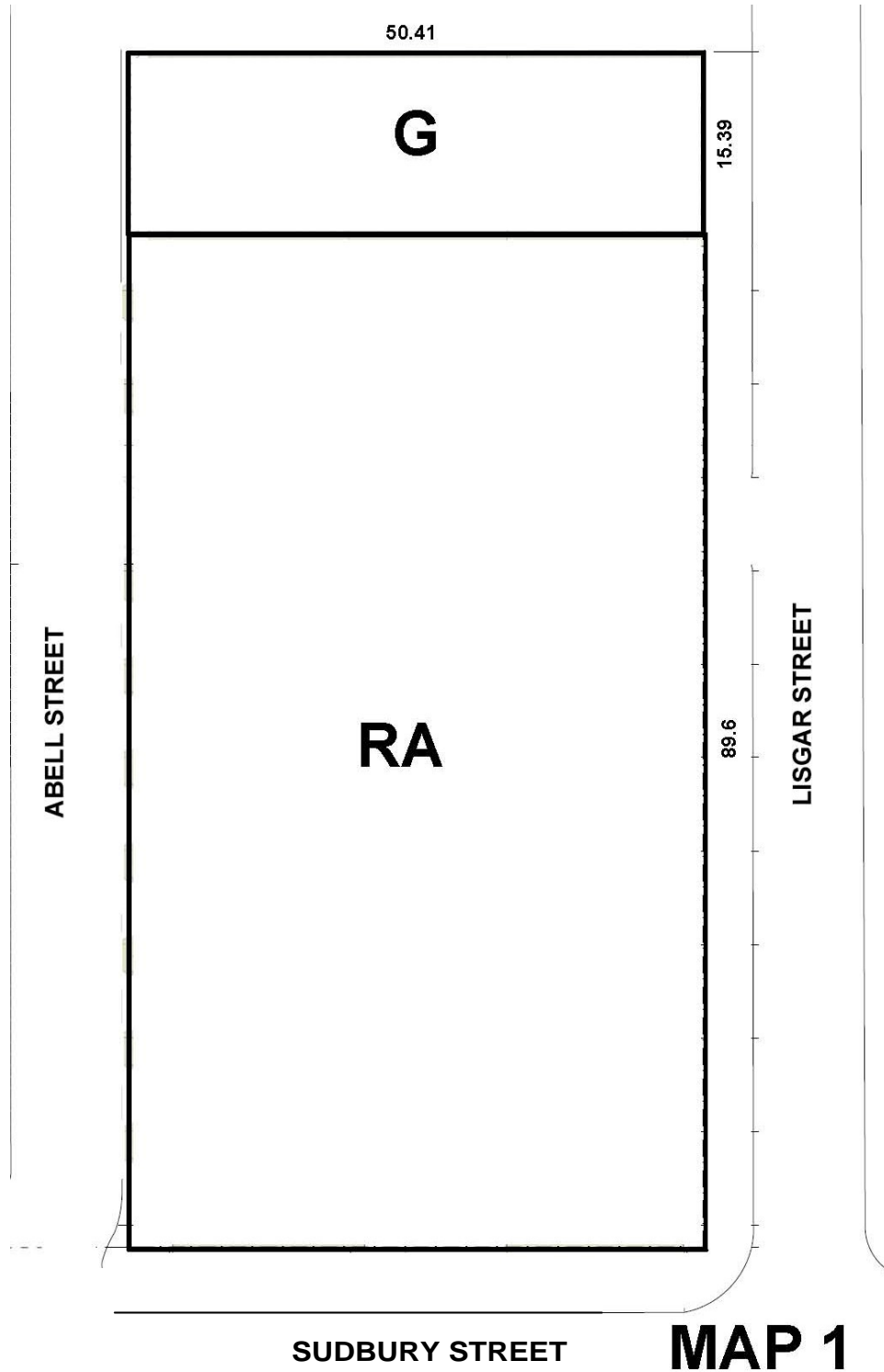
grade shall mean the average elevation of the sidewalk or planned elevation of the sidewalk on Sudbury Street adjacent to the *lot*;

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 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*;

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;
13. 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.





2-6 Lisgar Street

