

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 8, 2022

CASE NO.: OLT-21-001283

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: HS4 Investments Inc.
Subject: Request to amend the Official Plan - Failure of City of Toronto to adopt the requested amendment
Purpose: To permit a mixed use building with four built form components
Property Address/Description: 2370 Finch Avenue West
Municipality: City of Toronto
Approval Authority File No.: 17 262422 WET 07 OZ
OLT Case No.: OLT-21-001283
OLT File No.: OLT-21-001283
OLT Case Name: HS4 Investments Inc. v. Toronto (City.)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: HS4 Investments Inc.
Subject: Application to amend Zoning By-law Nos. 7625 and 569-2013– Neglect or Refusal of application by the City of Toronto
Purpose: To permit a mixed use building with four built form components
Property Address/Description: 2370 Finch Avenue West
Municipality: City of Toronto
Municipality File No.: 17 262422 WET 07 OZ
OLT Case No.: OLT-21-001283
OLT File No.: OLT-21-001284

BEFORE:

C. HARDY) Monday, the 8th
)
MEMBER) day of August, 2022

WHEREAS HS4 Finch Investments Inc. (“Appellant”) appealed the failure of the City of Toronto (“City”) to make decisions on applications for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBLA”) in relation to the property at 2370 Finch Avenue West (“subject property”);

AND WHEREAS the Tribunal held a settlement hearing and issued its decision on June 24, 2022;

AND THE TRIBUNAL having allowed the appeal in part and withheld the issuance of the final order until the satisfactory fulfillment of the final forms of the amendments to the City of Toronto Official Plan and Zoning By-law No. 569-2013 and confirmation by the City Solicitor that an agreement pursuant to s. 37 of the *Planning Act* has been executed by the Applicant and the City, and is registered on title to the Subject Property;

AND THE TRIBUNAL having been provided the OPA and ZBLA in their final form, on consent of the parties, on August 5, 2022

AND THE TRIBUNAL having reviewed the proposed OPA and ZBLA and having deemed the wording and schedules satisfactory;

AND PURSUANT TO RULE 24.3 OF THE TRIBUNAL'S RULES this Order is effective on August 12, 2022.

THE TRIBUNAL ORDERS that the OPA Appeal and the Zoning Appeal are allowed and that the Official Plan of the City of Toronto is hereby amended in the manner set out in Attachment “1”, and that Zoning By-law No. 569-2013 of the City of Toronto, as amended, is hereby amended in the manner set out in Attachment “2” to this Order. The Tribunal authorizes the municipal clerk to format, as may be necessary, and assign a number to these by-laws for record keeping purposes.

"Euken Lui"

EUKEN LUI
REGISTRAR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Authority: Ontario Land Tribunal Decision and Interim Order issued on June 24, 2022, and Order issued on August 8, 2022 in Case OLT-21-001283

CITY OF TORONTO**BY-LAW -2022 (OLT)**

To adopt an amendment to the Official Plan for the City of Toronto respecting the lands known municipally in the year 2022 as 2370 Finch Avenue West.

Whereas the Ontario Land Tribunal, by its Decision and Interim Order issued on June 24, 2022, and its Order issued on August 8, 2022 in Case OLT-21-001283, after hearing the appeal under subsection 22(7) of the Planning Act, R.S.O. 1990 c. P.13, as amended, approved an amendment to the City of Toronto Official Plan;

The City of Toronto Official Plan, as amended, is further amended by the Ontario Land Tribunal as follows:

1. The attached Amendment 581 to the Official Plan is hereby adopted pursuant to the Planning Act, as amended.

Pursuant to the Ontario Land Tribunal Decision and Interim Order issued on June 24, 2022, and its Order issued on August 8, 2022 in Case OLT-21-001283.

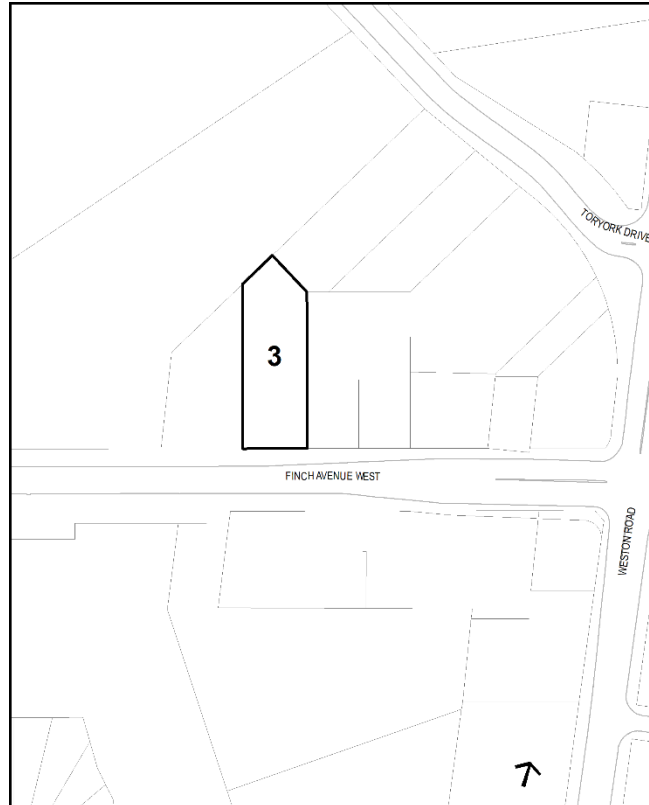
AMENDMENT 581 TO THE OFFICIAL PLAN**LANDS MUNICIPALLY KNOWN IN THE YEAR 2022 AS 2370 FINCH AVENUE WEST**

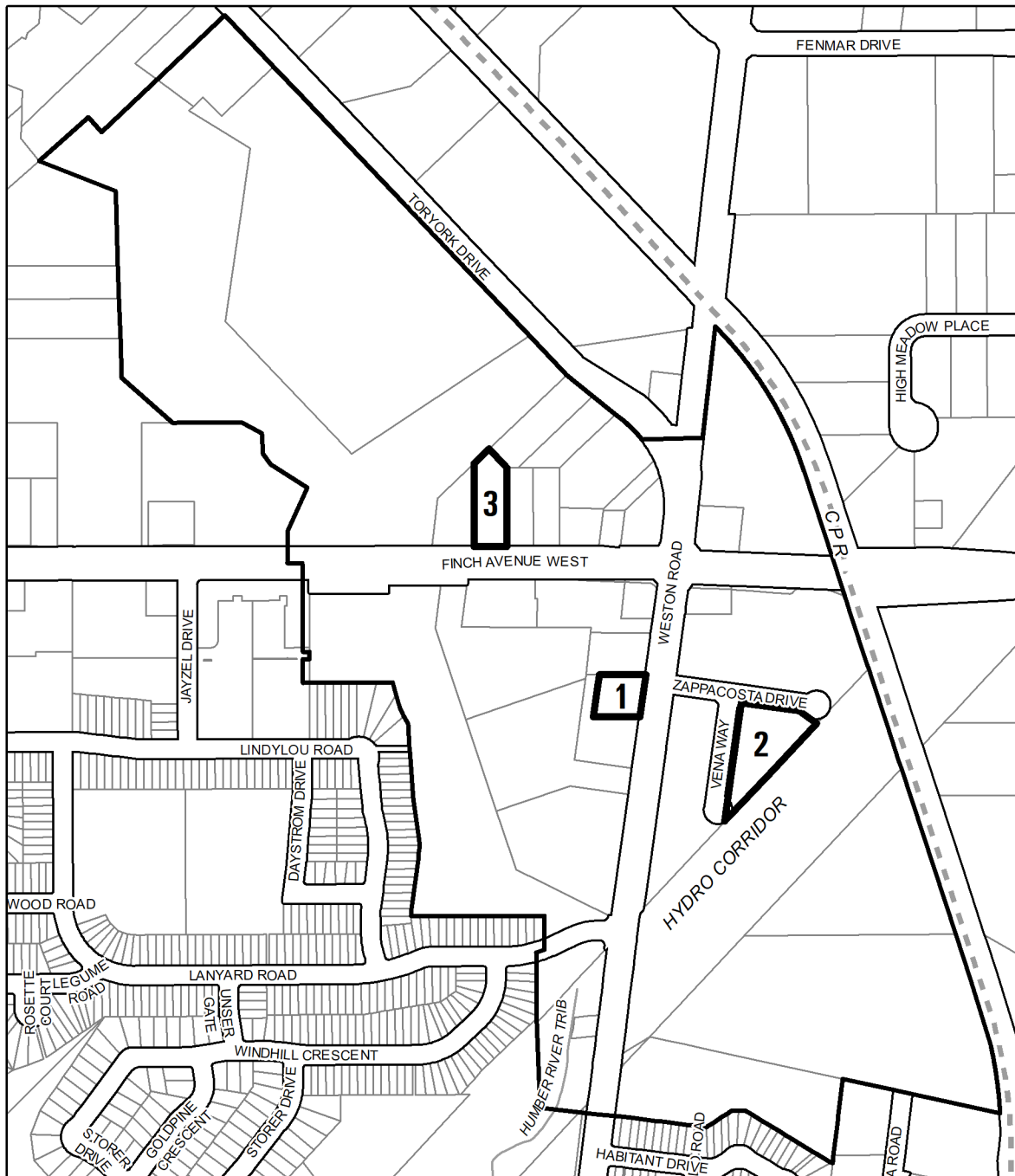
The Official Plan of the City of Toronto is amended as follows:

1. Chapter 6, Secondary Plans, 26. Emery Village Secondary Plan is amended by amending Map 26-3, Site and Area Specific Policies, by adding Site and Area Specific Policy 3 to the lands within the area bounded by Finch Avenue West, Emery Parks Yard, Toryork Drive, and Weston Road, as shown on the attached Schedule 1.
2. Chapter 6, Secondary Plans, 26. Emery Village Secondary Plan is amended by adding Site and Area Specific Policy 3 for lands municipally known as 2370 Finch Avenue West:
3. 2370 Finch Avenue West

Notwithstanding the *Mixed Use Areas "C1"* designation respecting the lands shown as 3 on Map 26-3, municipally known as 2370 Finch Avenue West and despite the maximum density requirements set out in Section 3 of the Emery Village Secondary Plan, by-laws may be passed respecting such lands permitting the following:

- (a) a total gross floor area of 14,655 square metres.


**Schedule 1**



Emery Village Secondary Plan

Map 26-3 Site and Area Specific Policies

- Secondary Plan Boundary
- 1 Site and Area Specific Policies


 City of Toronto By-law 569-2013
 Not to Scale
 06/07/2022

ATTACHMENT 2

Authority: Ontario Land Tribunal Decision and Interim Order issued on June 24, 2022, and Order issued on August 8, 2022 in Case OLT-21-001283

CITY OF TORONTO**BY-LAW -2022 (OLT)**

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 2370 Finch Avenue West.

Whereas the Ontario Land Tribunal, by its Decision and Interim Order issued on June 24, 2022, and its Order issued on August 8, 2022 in Case OLT-21-001283, after hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P13, as amended, ordered the amendment of Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 2370 Finch Avenue West; and

Whereas pursuant to Section 36 of the Planning Act, as amended, a by-law passed under Section 34 of the Planning Act, may use a holding symbol "(H)" in conjunction with any use designation to specify the use that lands, buildings or structures may be put once council removes the holding symbol "(H)" by amendment to the by-law; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the use of the holding symbol "(H)"; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and 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 and matters in return for an increase in the height or density of development, the 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 aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Ontario Land Tribunal amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.1 respecting the lands outlined by heavy black lines to (H) CR 2.5 (c1.0; r2.5) SS2 (614) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.11.10 Exception Number (614) so that it reads:

(614) Exception CR (614)

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) On 2370 Finch Avenue West, if the requirements in Section 6 and Schedule A of By-law [Clerks to supply by-law ##] are complied with, a **building or structure** may be constructed in compliance with regulations (B) to (F) below:
- (B) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** is 14,655 square metres, of which:
 - (i) The permitted maximum **gross floor area** for residential uses is 14,445 square metres; and
 - (ii) The minimum required **gross floor area** of non-residential uses is 210 square metres.
- (C) Despite Regulations 40.10.40.70(2), the required minimum **building setbacks** are as shown on Diagram 3 of By-law [Clerks to supply by-law ##] and Regulations 40.10.40.60 and 40.5.40.60 shall continue to apply;

- (D) Despite Regulations 40.10.40.10(2) and (7), the permitted maximum **height** of any **building or structure** must not exceed the numbers following the symbol "HT" and the number of **storeys** following the symbol "ST" on Diagram 3 of By-law **[Clerks to supply by-law ##]** and Regulation 40.5.40.10 shall continue to apply except that a parapet for a mechanical penthouse shall not be subject to Regulation 40.5.40.10 and may exceed the permitted height of a building or structure;
- (E) A minimum of 34.9 percent of the total number of **dwelling units** must contain a minimum of two bedrooms and a minimum of 10 percent of the total number of **dwelling units** must contain a minimum of three bedrooms;
- (F) Despite regulation 200.5.10.1(1), "car-share parking spaces" may replace **parking spaces** otherwise required for residential occupants, subject to the following:
 - (i) A reduction of four resident occupant **parking spaces** for each "car-share **parking space**" provided and that the maximum reduction be capped by the application of the following formula:
 - a. 4 multiplied by (total number of **dwelling units** divided by 60), rounded down to the nearest whole number;
 - (ii) For the purposes of this exception, "car-share parking space" means a **parking space** exclusively reserved and signed for a car used only for "car-share" purposes.

Prevailing By-laws and Prevailing Sections: None Apply

- 5. Despite any future severance, partition or division of the lands shown on Diagram 1, the provisions of this By-law will apply as if no severance, partition or division has occurred.
- 6. Holding Provisions
 - (A) The lands zoned with the holding symbol "(H)" delineated by heavy lines on Diagram 2 attached to this By-law must not be used for any purpose other than those uses and buildings existing as of the date of the passing of this By-law, until the holding symbol "(H)" has been removed; and
 - (B) An amending by-law to remove the holding symbol "(H)" referred to in (A) above may be enacted by City Council when the following are fulfilled to the satisfaction of City Council:
 - (i) Submission of a Noise and Vibration Study which shall be peer reviewed by a third party consultant at the owner's expense, to the satisfaction of the Chief Planner and Executive Director, City Planning Division which

addresses any noise and vibration concerns with the adjacent and industrial uses.

7. Section 37 Requirements:

- (A) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force. and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this By-law and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (B) Where Schedule A attached to this by-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to the Ontario Land Tribunal, by its Decision and Interim Order issued on June 24, 2022, and its Order issued on August 8, 2022 in Case OLT-21-001283.

SCHEDULE A

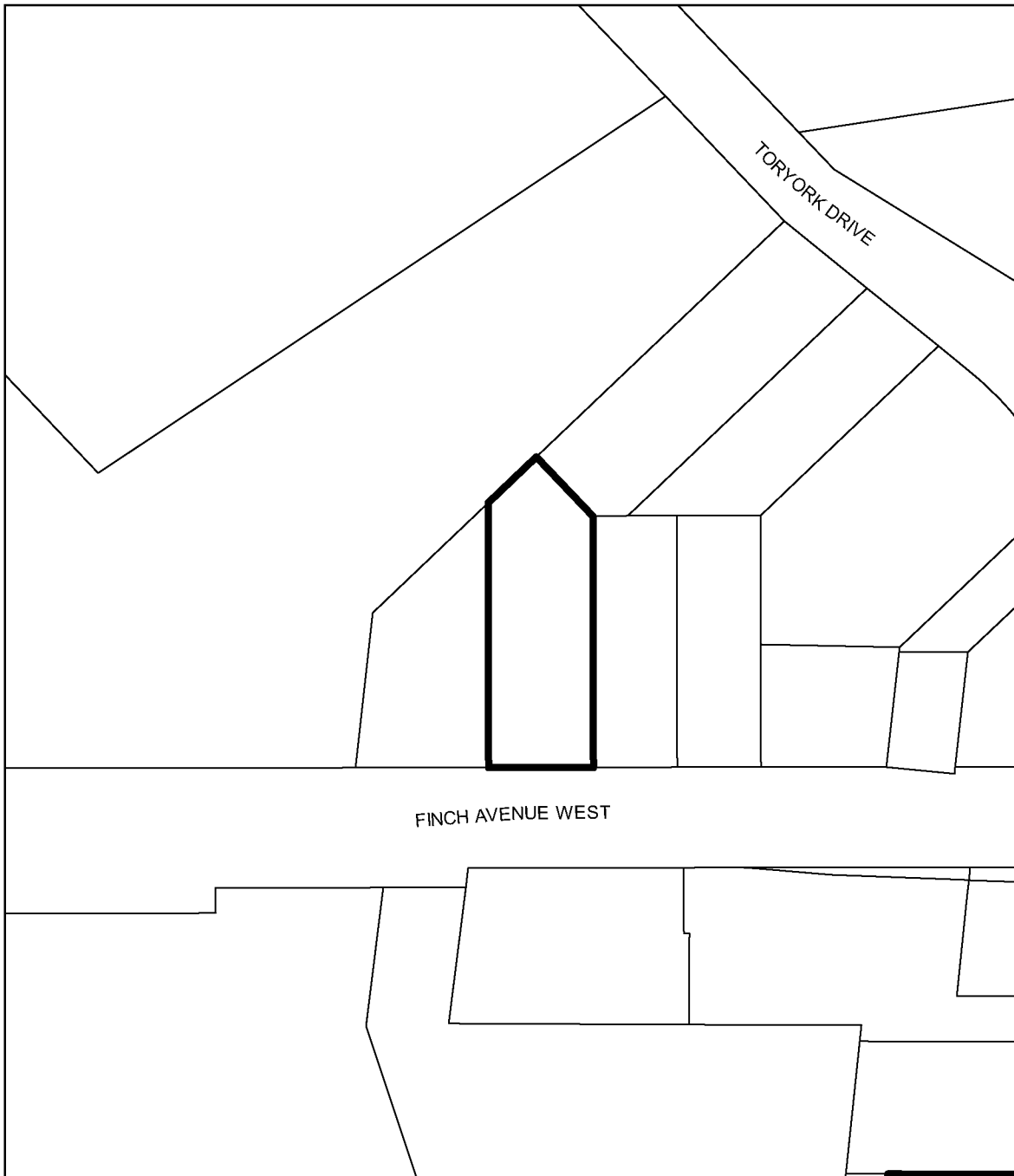
Section 37 Requirements

Upon execution and registration in priority of an agreement or agreements with the Owner, pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18, as amended, came into force, with conditions providing for without limitation, indexing escalation of letters of credit, development charges, indemnity, and registration satisfactory to the City Solicitor, securing the provision of the facilities, services and matters set out herein, the facilities, services and matters set out below are required to be provided to the City by the Owner of the lands at the Owner's expense in accordance with the By-law, and that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the Owner may not erect or use such building until the Owner has satisfied the following requirements:

1. Prior to the issuance of the first above-grade building permit for the proposed development, the owner shall make a cash contribution to the City in the amount of SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00), to be allocated towards capital facilities in the Emery Village Secondary Plan area, to be determined by the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor.
2. The cash contribution in paragraph 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the cash contribution by the owner to the City.
3. In the event the cash contribution in paragraph 1 has not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the cash contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the development.
4. The owner shall construct and maintain the proposed development in accordance with Tier 1, Toronto Green Standard, and the owner will be encouraged to achieve Tier 2, Toronto Green Standard, or higher, where appropriate, consistent with the performance standards of the Toronto Green Standards applicable at the time of the Site Plan Control application for the development.
5. Prior to the issuance of the first building permit for the proposed development, the owner shall make a cash-in-lieu payment for the sidewalk construction along the Finch Avenue

West and future Emery Village Road 2A property frontages on the site to the satisfaction of the General Manager, Transportation Services.

6. Prior to Site Plan approval, the owner shall:
 - (A) implement the mitigation measures identified in the Noise and Vibration Study, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (B) implement the mitigation measures identified in the Pedestrian Wind Study prepared by SLR, dated October 16, 2020, to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - (C) satisfy the requirements of the Toronto District School Board and the Toronto Catholic District School Board regarding warning clauses and signage with respect to school accommodation issues;
 - (D) provide space within the proposed development for installation of maintenance access holes and sampling ports on the site, as close to the property line as possible, for both the storm and sanitary service connections, in accordance with the Sewers Chapter 68-10 to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services; and
 - (E) submit a gas investigation report with certified letter, signed and stamped by a qualified person, to state whether or not there is methane gas detected at or above one percent volume in air, at any subsurface locations on the site, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
7. Prior to the issuance of the first building permit for the development, the owner shall provide and implement, at its sole cost and expense, a construction management plan and tenant communication strategy for the development of the site or any portion thereof, to the satisfaction of the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services and the Ward Councillor.

Diagram 1

 **Toronto**
Diagram 1

2370 Finch Avenue West

File # 17 262422 WET 07 02


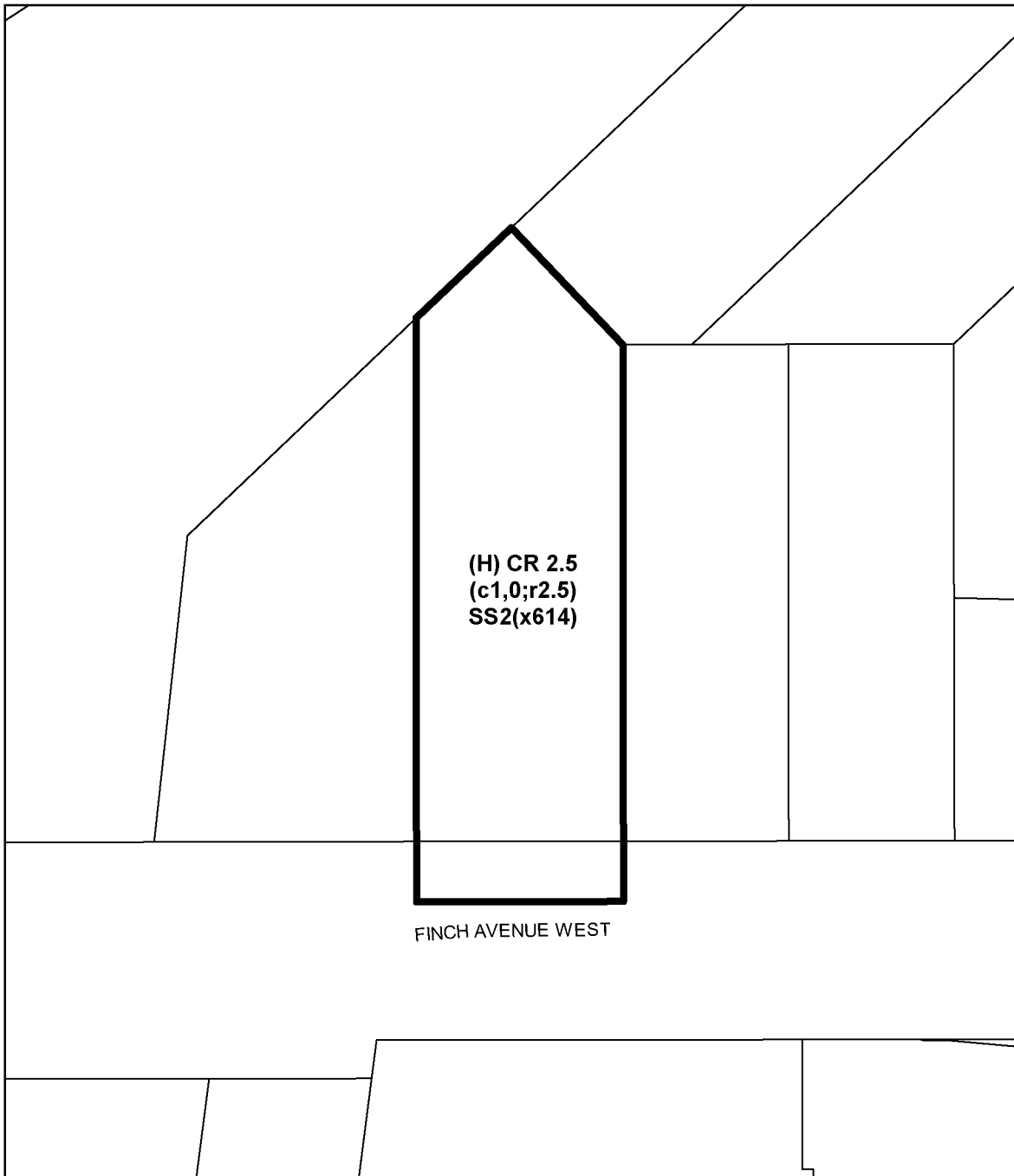

City of Toronto By-law 569-2013
Not to Scale
06/15/2022

Diagram 2

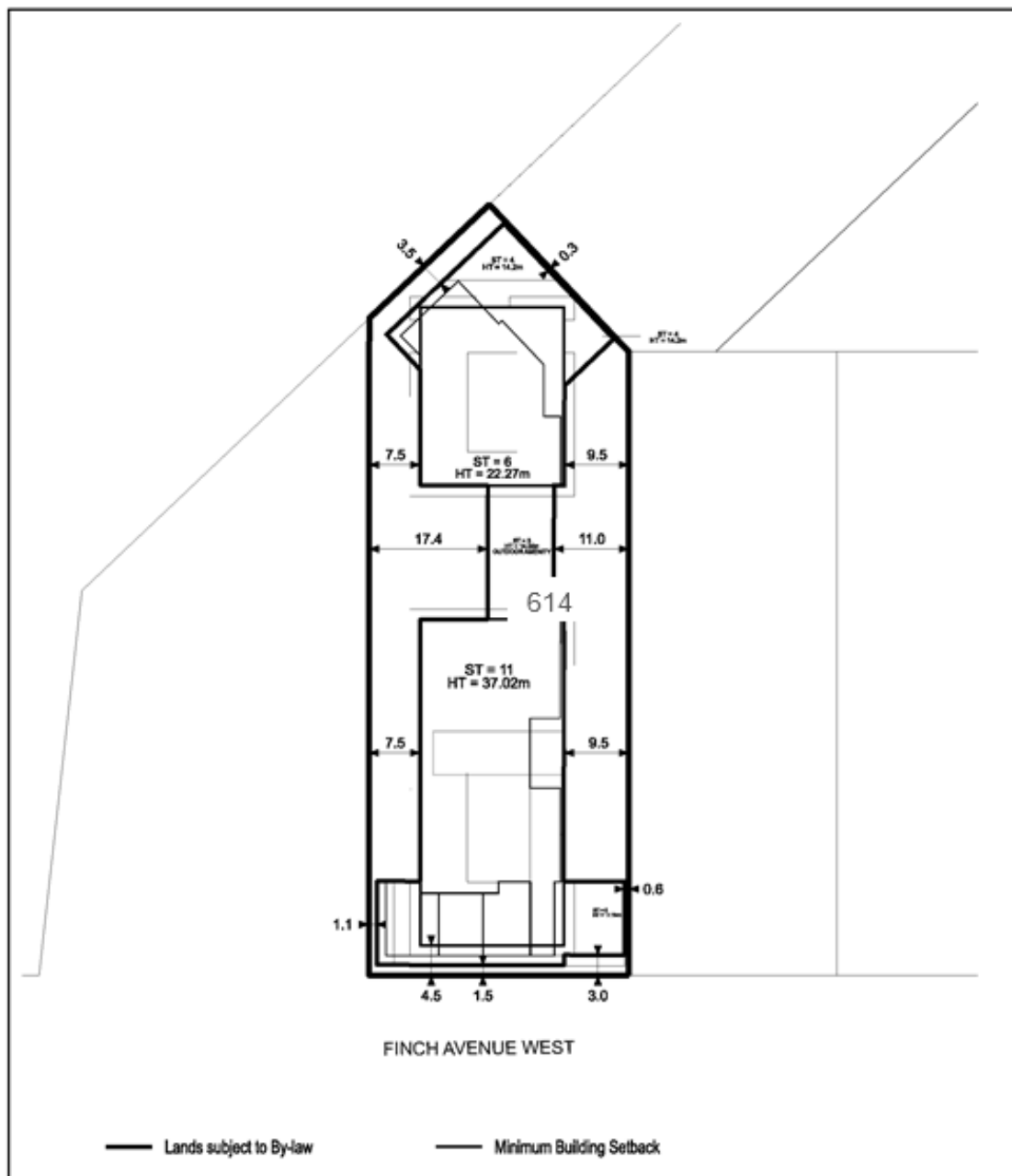


 **Toronto**
Diagram 2

2370 Finch Avenue West

File # 17 262422 WET 07 0Z

Diagram 3



Toronto
Diagram 3

2370 Finch Avenue West

File # 17 262422 WET 07 0Z

City of Toronto By-law 569-2013
Not to Scale
06/15/2022