

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 2, 2022

CASE NO.:

OLT-22-003946
(Formerly PL161267)

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

Applicant and Appellant: 1175484 Ontario Inc., 1606072 Ontario Inc., et al
Subject: Request to amend the Official Plan - Refusal of request
by the City of Toronto
Existing Designation: Regeneration Area
Proposed Designated: Site Specific (To be determined)
Purpose: To permit a 25-storey mixed-use building
Property Address/Description: 301-317 Queen Street East
Municipality: City of Toronto
Approval Authority File No.: 16 161250 STE 28 OZ
OLT Case No.: OLT-22-003946
Legacy Case No.: PL161267
OLT Lead Case No.: OLT-22-003946
Legacy Lead Case No.: PL161267
OLT Case Name: 1175484 Ontario 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: 1175484 Ontario Inc., 1606072 Ontario Inc.,
et al
Subject: Application to amend Zoning By-law Nos.
438-86 and 569-2013 - Refusal of Application
by the City of Toronto
Existing Zoning: MCR T3.0 "Mainstreet Commercial
Residential", and CR
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit a 25-storey mixed-use building
Property Address/Description: 301-317 Queen Street East
Municipality: City of Toronto
Municipality File No.: 16 173154 STE 27 OZ
OLT Case No.: OLT-22-004173
Legacy Case No.: PL161268
OLT Lead Case No.: OLT-22-003946
Legacy Lead Case No.: PL161267

OLT Case Name: 1175484 Ontario Inc. v. Toronto (City)

BEFORE:

STEVEN COOKE
VICE-CHAIR

) Tuesday, 2nd
)
) day of August, 2022

THIS MATTER, in respect of the lands at 301-317 Queen Street East and (collectively, the “**Subject Property**”), the appeal having been heard at a public hearing on November 9-20, 2020, and the Ontario Land Tribunal (the “**Tribunal**”) having issued its interim decision on February 5, 2021, (the “**Decision**”) that the appeal under subsection 34(11) of the *Planning Act* (the “**Appeal**”) in Tribunal Case No. OLT-22-003946 (PL161267) should be allowed in part, and approving the proposed zoning by-law amendment in principle;

AND THE TRIBUNAL having withheld its final order, pending the satisfaction of conditions, including the receipt of the final form of the zoning by-law amendment in respect of the Subject Property;

AND THE TRIBUNAL now having received confirmation from the appellant and the City of Toronto of the fulfillment of the conditions of the Decision, including confirmation of the final form of the zoning by-law amendment, satisfactory to the City of Toronto, attached hereto as Schedule “A”;

THEREFORE THE TRIBUNAL ORDERS that the Appeal is allowed in part, and that Zoning By-law No. 569-2013 of the City of Toronto, as amended, is hereby amended in the manner set out in Schedule “A” to this Order;

AND PURSUANT TO RULE 24.3 OF THE TRIBUNAL’S RULES this Order is effective on August 2, 2022.

AND THE TRIBUNAL authorizes the municipal clerk to format, as may be necessary, and assign a number to these by-laws for record keeping purposes.

THE TRIBUNAL may be spoken to in the event any matter arises in connection with the implementation of this Order.

“Euken Lui”

EUKEN LUI
ACTING 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.

SCHEDULE A

Authority: Ontario Land Tribunal Decision issued on February 25, 2021 and Ontario Land Tribunal Order issued on August 2, 2022 in Tribunal File PL161267

CITY OF TORONTO

BY-LAW [clerks to insert By-law number]-[Clerks to enter year]

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 301-317 Queen Street East

Whereas the Ontario Land Tribunal, in its Decision issued on February 25, 2021, and its Order issued on August 2, 2022 in file PL161267, in 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 301-317 Queen Street East; 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 Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; 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, by Order, 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 990.10 respecting the lands outlined by heavy black lines from a zone label of CR 4.5 (c2.0; r4.0) SS2 (x333) to a zone label of (H) CR 6.75 (c0.95; r5.8) SS2 (~~x782~~) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.11.10 Exception Number ~~782~~ so that it reads:

(~~782~~) Exception CR ~~782~~

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 301-317 Queen Street East, if the requirements in Section 6 and 7 and Schedule A of By-law [~~Clerks to supply by-law ##~~] are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with regulations (B) to (G) below;
- (B) Despite Regulations 40.5.40.10(1) and (2), the height of any **building** or **structure** is the distance between the Canadian geodetic Datum elevation of 84.71 metres and the elevation of the highest point of the **building** or **structure**;
- (C) Despite Regulations 40.10.40.10(3) and (7), the permitted maximum height of a **building** and **structure** is the number in metres following the letters "HT" and the permitted maximum **storeys** is the number following the letters "ST" in Diagram 3 of By-law [~~Clerks to supply by-law ##~~]; and

- i. for the purpose of this exception, a mechanical penthouse is not a **storey**;
- (D) Despite Regulation 40.10.40.40(1), the permitted maximum **gross floor area** on the **lot** is 12,200 square metres, of which:
- i. The permitted maximum **gross floor area** for residential uses is 10,600 square metres; and
 - ii. The required minimum **gross floor area** for non-residential uses is 900 square metres;
 - iii. The required minimum **gross floor area** of non-residential uses in the portion of the **building** labelled "existing heritage church" as shown on Diagram 3 of By-law [Clerks to insert **By-law number**] is 700 square metres.
- (E) Despite Regulations 40.5.40.60 (2)(B) and 40.10.40.60 (2)(B), 3(A), and 5(A), the following elements of a **building** or **structure** are permitted to encroach into the required minimum **building setbacks** as follows:
- i. Architectural features, balustrades, cornices, eaves, landscape features, light fixtures, ornamental elements, ventilation shafts, and window sills to a maximum 0.9 metres.
 - ii. Stairs, stair enclosures, and wheel chair ramps, to a maximum of 1.8 metres.
- (F) Despite Regulations 40.5.40.10(5) functional elements, **structure** or parts of a **building** may cover more than 30% of the area of the roof measured horizontally.
- (G) Despite Regulation 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided on the **lot** in accordance with the following:
- i. 42 **parking spaces** on a non-exclusive basis for both residential and non-residential uses.

Prevailing By-laws and Prevailing Sections: (None Apply)

5. Despite any severance, partition, conveyance or division of the lands, the provisions of this By-law shall apply as if no severance, partition, conveyance or division occurred.

6. Holding Provisions

- (A) The lands zoned with the "(H)" symbol delineated by heavy lines on Diagram 2 attached to and forming part of this By-law must not be used for any purpose other than those uses existing on the site as of the date of this By-law on the lands shown on Diagram 1 attached to this By-law until the "(H)" symbol has been removed.
- (B) An amending By-law to remove the "(H)" shall be enacted by City Council when the following have been provided for to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services:
 - i. The Owner must provide an updated functional servicing report and revised hydrogeological report which is acceptable to the Executive Director and Chief Engineer, Engineering and Construction Services, and any required upgrades to services identified in the accepted report are addressed through a financially secured agreement.

7. Section 37 Requirements:

- (A) Pursuant to Section 37 of the *Planning Act*, 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* 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.

Ontario Land Tribunal Decision issued on February 25, 2021, and Ontario Land Tribunal Order issued on [date] in Tribunal File PL161267

SCHEDULE A

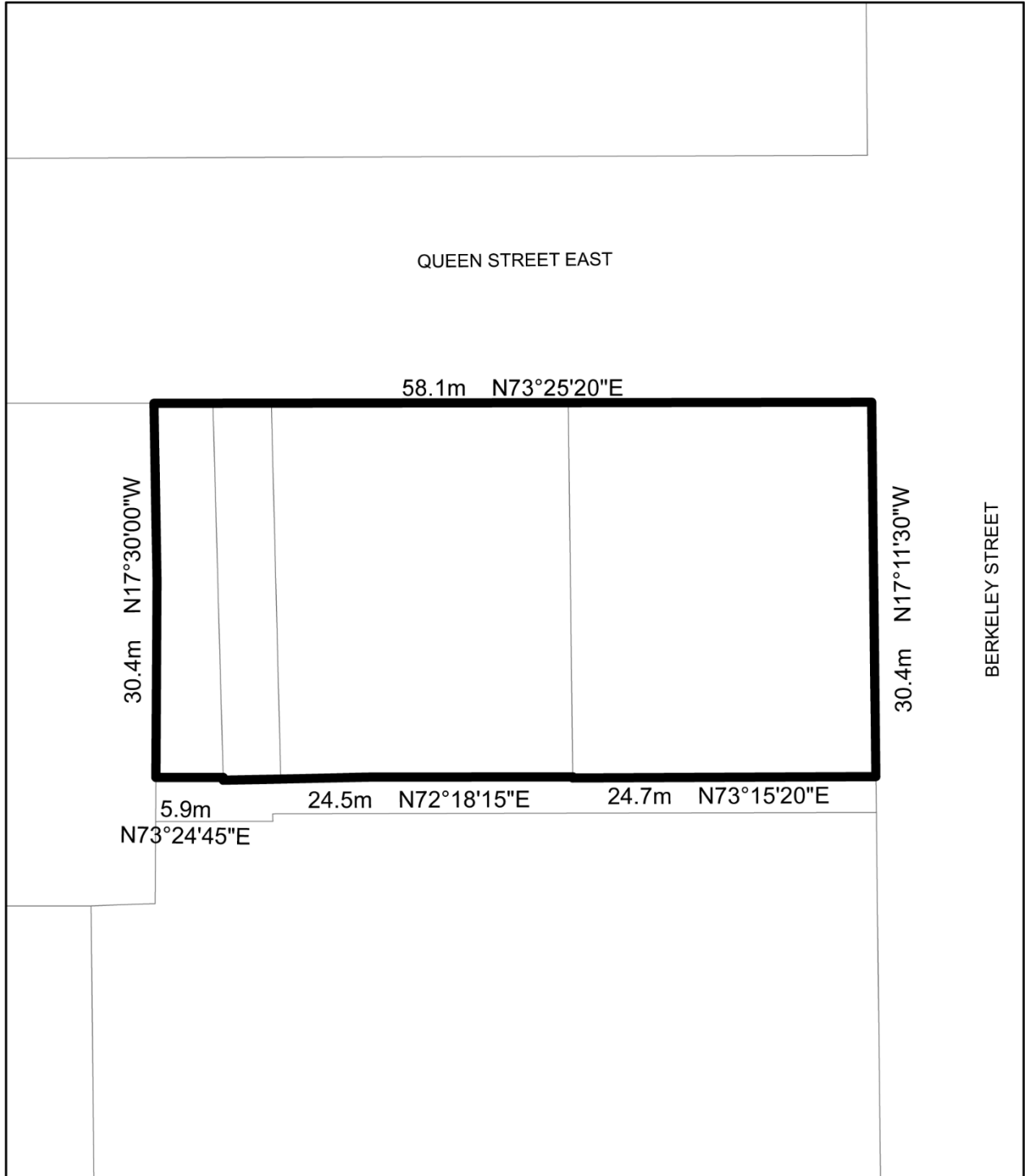
Section 37 Requirements

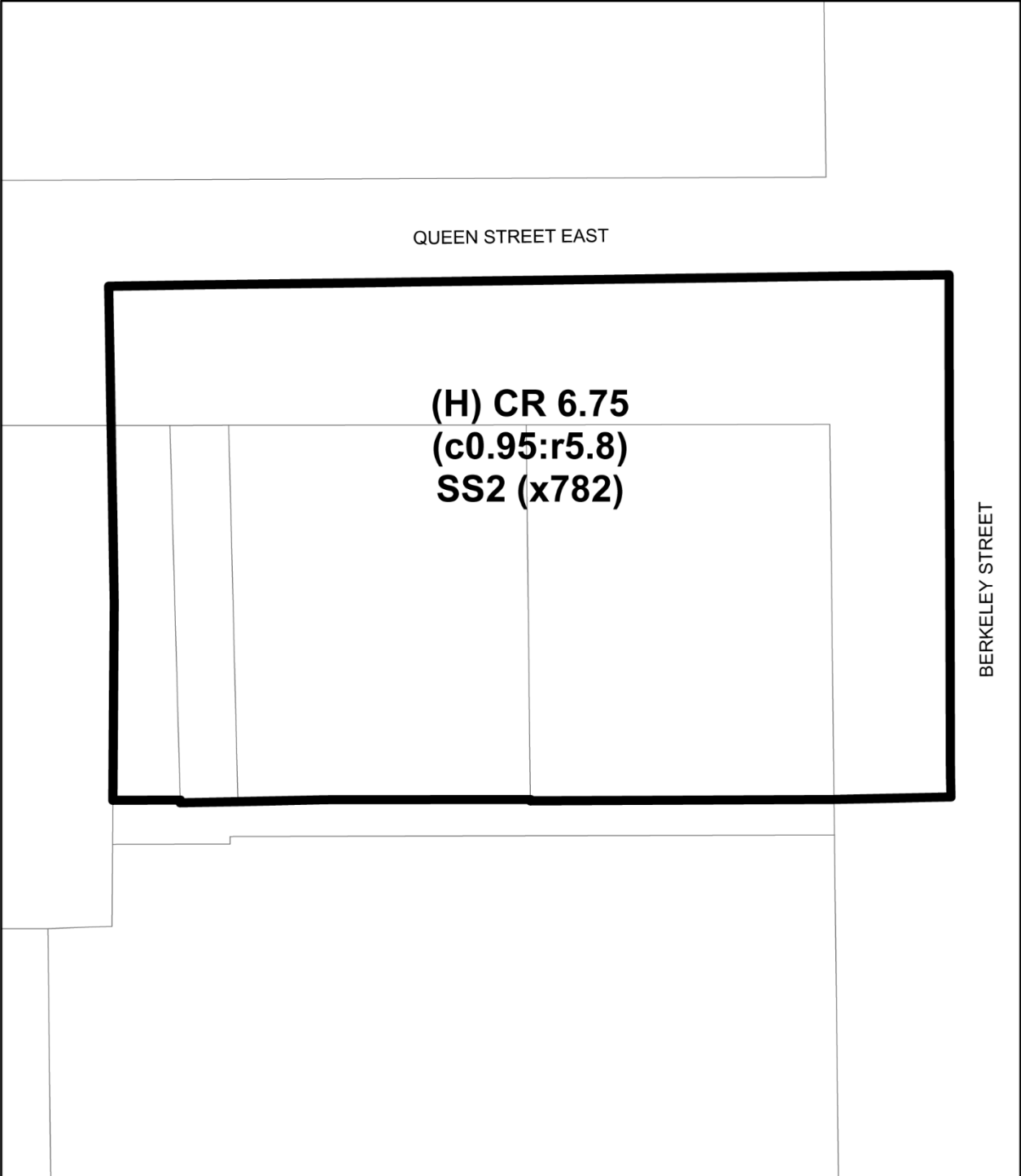
The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

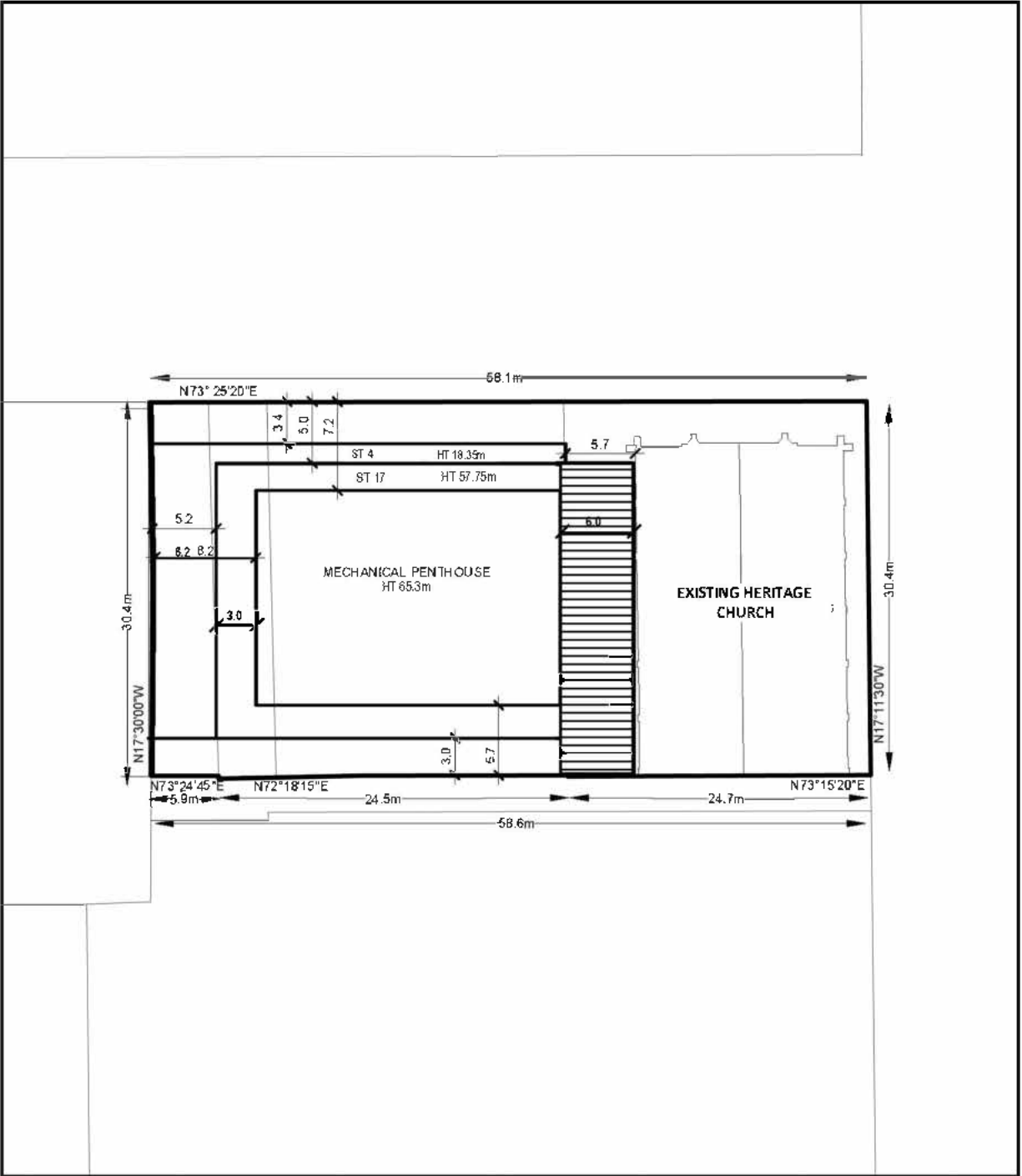
1. Prior to the issuance of any building permit, the owner shall enter into an agreement and register same on title in priority to other charges to the land, to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits below.
2. The agreement required above will secure the provision of a cash payment to the City in the amount of \$1,050,000, which shall be allocated as follows:
 - (A) \$525,000 toward capital improvements for existing or new affordable housing within Ward 13; and
 - (B) \$525,000 toward local streetscape, park and recreation centre improvements in Ward 13, including but not limited to Moss Park and John Innes Community Centre, in consultation with the local Councillor.
3. The Cash Contribution set out in Clause 2 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 this zoning by-law comes into full force and effect to the date of payment of the Cash Contribution by the owner to the City.
4. In the event the Cash Contribution in Clause 2 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.
5. The following matters must also be secured in the section 37 agreement:
 - (A) The owner and the neighbouring property owner to the south ("Concert") will agree that as a condition of site plan approval the City will require the installation of truck sensors in the laneway and warning lights within the Concert building to warn vehicles when a garbage truck is present on site.
 - (B) The owner and Concert will agree that as a condition of site plan

approval the owner shall grant an easement to Concert for the truck turnaround bay as depicted in the BA Group draft report dated September 25, 2020.

- (C) The owner acknowledges and agrees that the vehicular access from Queen Street East will be right-in/right-out ("RIRO") only, and as a condition of site plan approval the owner will be required to install signage, infrastructure, or take any measures to ensure that the RIRO is enforceable by the City and Toronto Police Services, all of which will be secured as a condition of site plan approval.
- (D) The owner and Concert will agree as a condition of site plan approval to take steps in cooperation with the adjoining landowner to ensure that there will be no illegal parking in the private lane that would impede operation of waste pick-up. The City will consider any requests made by the owner and Concert to assist with vehicle removal in accordance with the Municipal Code.
- (E) Prior to any site plan approval for the site the owner shall provide an acceptable Conservation Plan and enter into a Heritage Easement Agreement with the City of Toronto in the event no Section 37 funds are directed towards the church.







TORONTO
Diagram 3

301-317 Queen Street East

File # 16 161250 STE 28 02



No building shall be located within the hatched area to a minimum vertical height of 26.0 metres above grade



City of Toronto By-law 569-2013
 Not to Scale
 07/28/2022