

Authority: Toronto East York Community Council
Item TE9.5, as adopted by City of Toronto Council on
October 29 and 30, 2019

CITY OF TORONTO

BY-LAW 106-2020

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2019 as 26-40 Birch Avenue.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act; 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 Council of the City of Toronto enacts:

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 lines R (d1.0) (x75), as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by removing item (E) from the list of Prevailing By-laws and Prevailing Sections of Article 900.2.10 Exception Number 745.

5. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.2.10 Exception Number 75, so that it reads:

Exception R 75

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 26-40 Birch Avenue, if the requirements of Section 6 and Schedule A of By-law 106-2020 are complied with, a **building, structure**, addition or enlargement may be constructed or used if it is in compliance with regulations (B) to (N) below;
- (B) For the purposes of this exception, **established grade** is the Canadian Geodetic Datum elevation of 124.23 metres in the year 2019;
- (C) Despite regulation 10.10.40.10(1), the permitted maximum height of a **building or structure** on the **lot** is the numerical value, in metres, following the letters "HT" on Diagram 3 of By-law 106-2020;
- (D) Despite (C) above and regulations 10.5.40.10 (3) and (4), the following **building** elements may exceed the permitted maximum **building** height:
 - (i) access hatches, air shafts, sky lights, ornamental or architectural features and parapets, all of which may project up to a maximum of 1.1 metres;
 - (ii) elevator equipment and elevator upstands, all of which may project up to a maximum of 1.0 metres; and
 - (iii) privacy fences and **structures** used for safety and wind protection, railings, landscape retaining walls and planters, trellises, wood privacy fences, balcony railings, all of which may project up to a maximum of 2.0 metres;
- (E) Despite regulation 10.10.40.30(1), the permitted maximum **building depth** is 37.0 metres;
- (F) Despite regulation 10.10.40.40(1), the permitted maximum **gross floor area** is 6,800 square metres;
- (G) Despite regulations 10.5.50.10(4) and (5), **landscaping** must be provided as follows:
 - (i) a minimum of 875 square metres of **landscaping** must be provided on the **lot**, of which a minimum of 200 square metres must be provided as **soft landscaping**;

- (H) Despite regulation 10.5.40.70(1) and clause 10.10.40.70, the required minimum **building setbacks** for all **buildings** or **structures** are as shown on Diagram 3 of By-law 106-2020;
- (I) Despite (H) above and clause 10.5.40.60, the following may encroach into the required minimum **building setbacks** in Diagram 3 as follows:
 - (i) covered or uncovered decks, porches, patios or other similar platforms and associated **structures**, balconies, canopies, canopy support **structures**, roofs, awnings or similar **structures** above a platform, all of which may encroach up to a maximum of 3.0 metres;
 - (ii) exterior stairs, ramps, covered stairs or stair enclosures, all of which may encroach up to a maximum of 3.0 metres; and
 - (iii) wall mounted equipment such as, vents, pipes, utility equipment, mechanical fans, satellite dish, antenna and/or pole used to hold an antenna, architectural or ornamental features, and cladding, all of which may project up to a maximum of 1.0 metres;
- (J) Despite regulation 200.5.1.10(12)(C), the **vehicle** entrance or exit to the **building** must be at least 3.6 metres from the **lot line** abutting the **street**;
- (K) Regulation 10.10.40.50 (1), relating to **amenity space** for an **apartment building** does not apply;
- (L) Clause 10.10.40.80, relating to distances between **main walls** of the same **apartment building**, does not apply;
- (M) Regulations 200.15.1(4) and 200.15.1.5(1), relating to the location of accessible **parking spaces** do not apply; and
- (N) Notwithstanding any existing or future severance, partition, division, or conveyance of the **lot**, the provisions of this exception and By-law 569-2013 shall apply to the whole **lot** as if no severance, partition or division occurred.

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

6. Section 37 Provisions

- (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 Diagram 2 of By-law 106-2020 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;

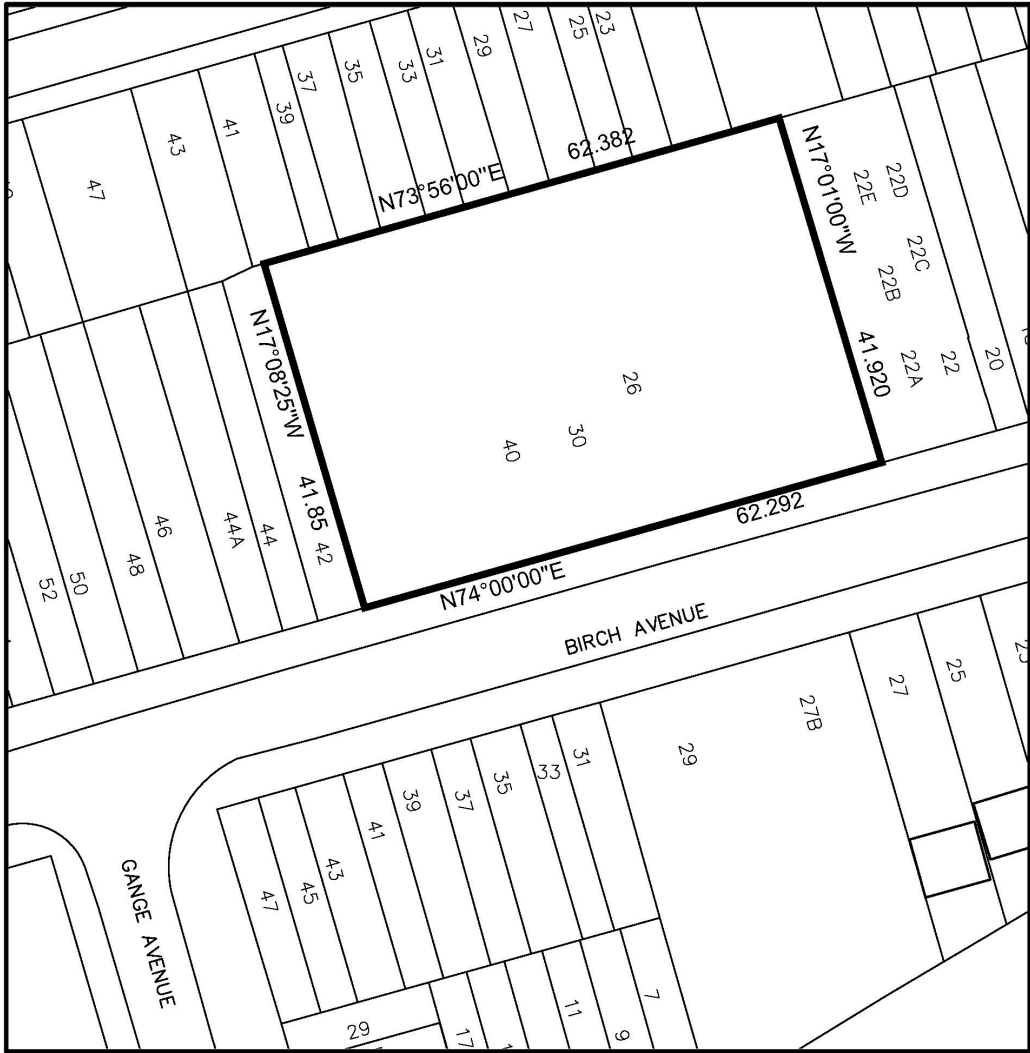
- (B) Where Schedule A of By-law 106-2020 requires the owner to provide certain facilities, services or matters prior to the issuance of a **building** permit, the issuance of such permit shall be dependent on satisfaction of the same; and
- (C) The owner shall not use, or permit the use of, a **building** or **structure** erected with an increase in height and density pursuant to By-law 106-2020 unless all provisions of Schedule A are satisfied.

Enacted and passed on January 29, 2020.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

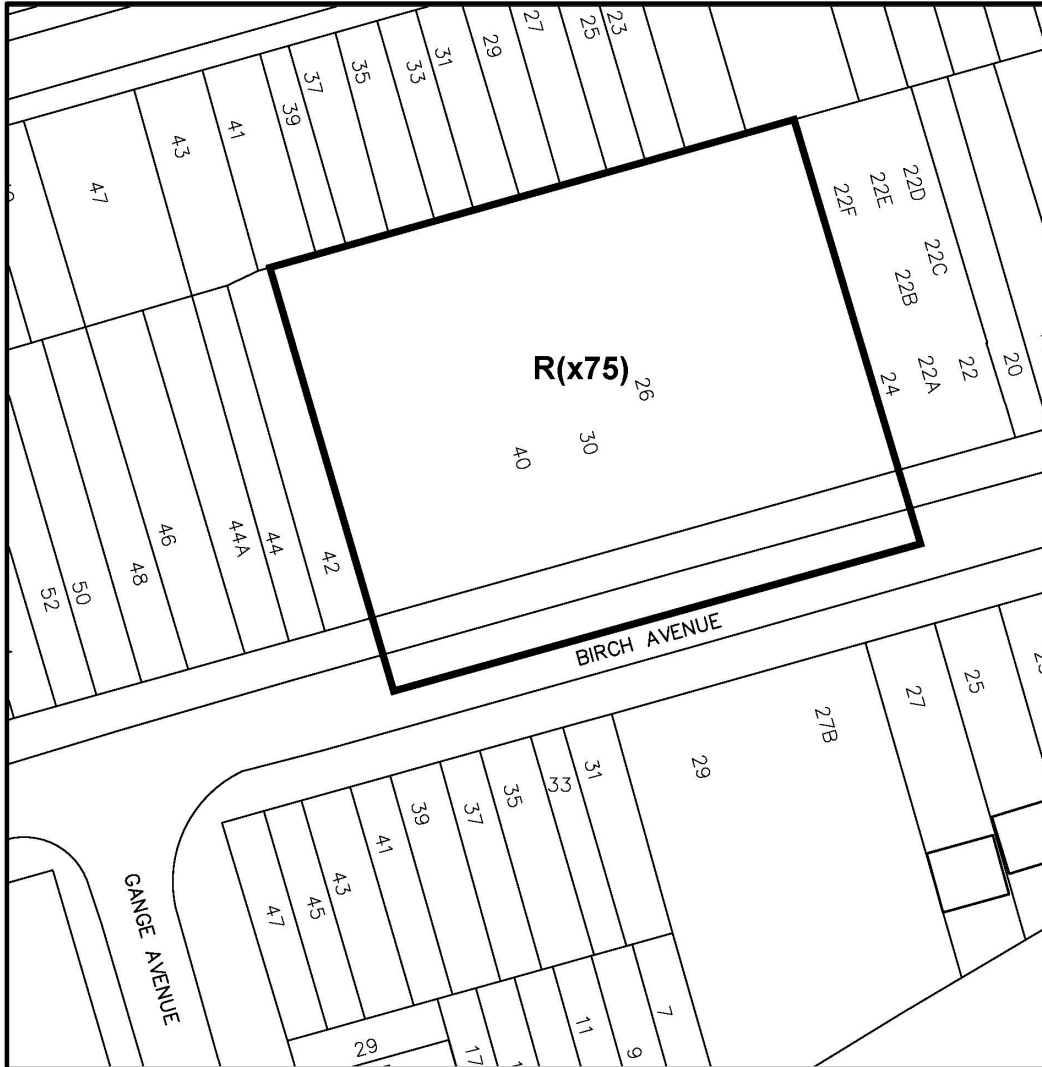
(Seal of the City)



**26-40 BIRCH AVENUE
DIAGRAM 1**

File # 18 212287 STE 22 OZ

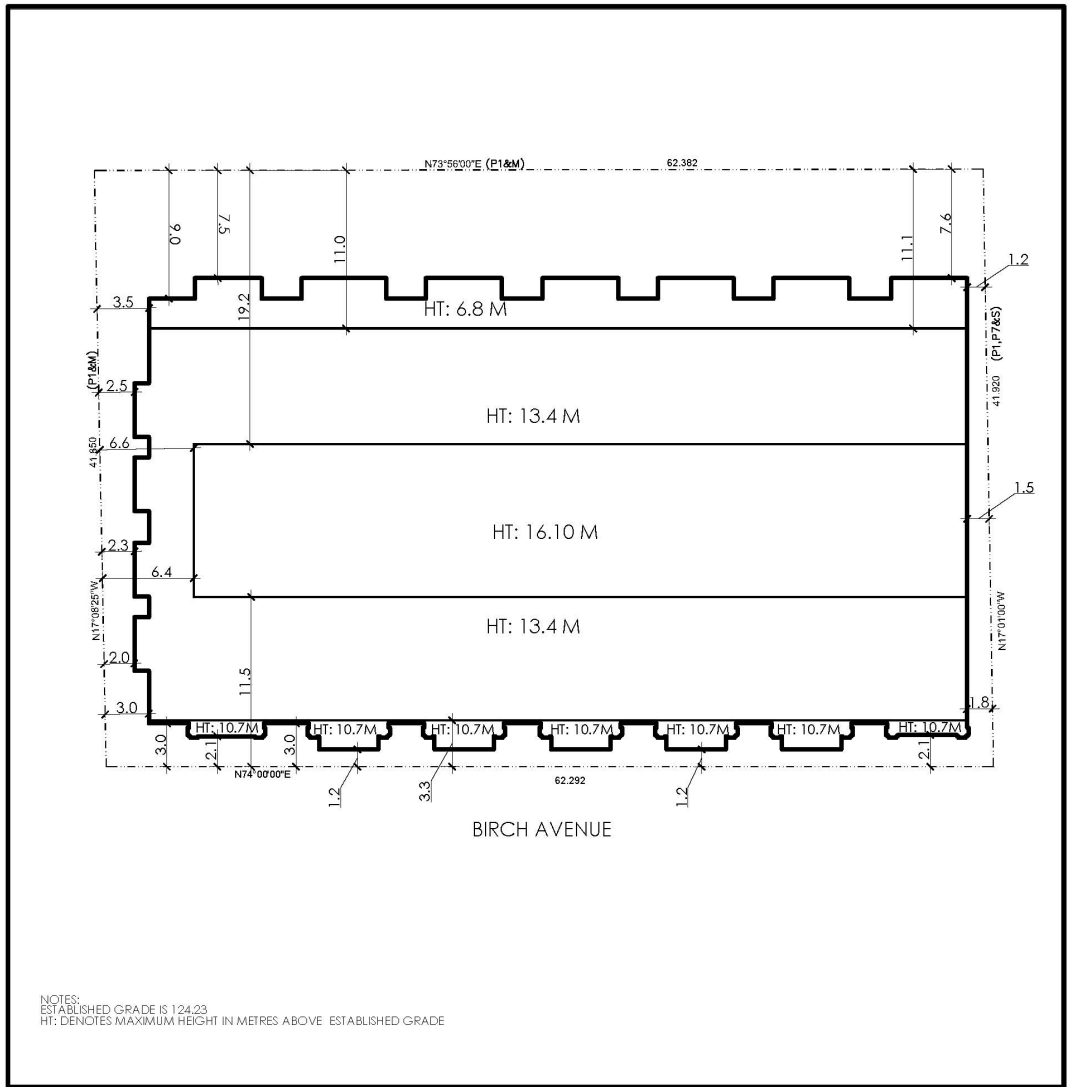
↑
Not to Scale



**26-40 BIRCH AVENUE
DIAGRAM 2**

File # 18 212287 STE 22 OZ

↑
Not to Scale



NOTES:
ESTABLISHED GRADE IS 124.23
HT: DENOTES MAXIMUM HEIGHT IN METRES ABOVE ESTABLISHED GRADE



**26-40 BIRCH AVENUE
DIAGRAM 3**

File # 18 212287 STE 22 OZ

↑
Not to Scale

SCHEDULE A

Section 37 Provisions

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 lot and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

- (A) A financial contribution in the amount of \$250,000.00 payable to the City prior to issuance of the first above-grade building permit, with such amount to be indexed upwardly in accordance with Statistics Canada Residential Building or Non-Residential Building Construction Price Index, as the case may be, for the Toronto Census Metropolitan Area, reported by Statistics Canada in the Building Construction Price Indexes Publication 327-0058, or its successor, calculated from the date of the Section 37 Agreement to the date of payment. The funds shall be directed as follows:
 - (i) towards capital improvements for new or existing cultural and/or community space within the vicinity of the application site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor; and/or
 - (ii) towards local area park or streetscape improvements within the vicinity of the application site, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the General Manager, Parks, Forestry and Recreation, and the Ward Councillor.

- (B) The following matter(s) are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - (i) the owner shall develop a Construction Mitigation Plan prior to the issuance of the first below grade building permit for the proposed development of the site to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor.