

Authority: Local Planning Appeal Tribunal Decision
Issued on May 11, 2021 in Tribunal File PL200097 and
Ontario Land Tribunal Order issued on August 14, 2023 in
Tribunal File OLT-22-002866 (formerly PL200097)

CITY OF TORONTO

BY-LAW 791-2023(OLT)

To amend Zoning By-law 569-2013, as amended, with respect to the lands municipally known in the year 2022 as 26, 30-36 and 38 Burnhamthorpe Road and 45-49 Burnhamthorpe Crescent.

Whereas the Ontario Land Tribunal pursuant to its Order issued on August 14, 2023 in respect of Tribunal Case PL200097, upon hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, deems it advisable to amend the Zoning By-law for the City of Toronto, being By-law 569-2013, as amended, with respect to lands municipally known in the year 2022 as 26, 30-36 and 38 Burnhamthorpe Road and 45-49 Burnhamthorpe Crescent;

Now therefore pursuant to the Order of the Ontario Land Tribunal, By-law 569-2013 is further amended as follows:

1. The lands subject to this By-law are outlined in 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 zoning label of RD (f13.5; a510; d0.45) (x37) to a zone label of RM (u82) (x244) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding the lands on Diagram 1 of this By-law to the Policy Areas Overlay Map in Article 995.10 and applying no value.
5. Zoning By-law 569-2013, as amended, is further amended by adding to Article 900.5.10 Exception Number [244] so that it reads:

(244) Exception RM 244

The lands are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) On 26, 30-36 and 38 Burnhamthorpe Road and 45-49 Burnhamthorpe Crescent, if the requirements of By-law 791-2023(OLT) are complied with, a **building** or

structure may be constructed, used or enlarged in compliance with Regulations (B) to (U) below;

- (B) Despite Regulations 10.5.40.10(1) and 10.5.60.40(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum set out below and the elevation of the highest point of the **building** or **structure**:
- (i) Building A is Canadian Geodetic Datum 128.81 metres;
 - (ii) Building B is Canadian Geodetic Datum 128.81 metres;
 - (iii) Building C is Canadian Geodetic Datum 128.91 metres;
 - (iv) Building D is Canadian Geodetic Datum 128.98 metres;
 - (v) Building E is Canadian Geodetic Datum 129.05 metres;
 - (vi) Building F is Canadian Geodetic Datum 129.11 metres; and
 - (vii) The ancillary **building** is Canadian Geodetic Datum 128.95 metres;
- (C) Despite Regulation 10.80.20.40(1), a **townhouse** is a permitted building type on the lands;
- (D) For the purpose of this exception, notwithstanding the definitions of **townhouse** and **apartment buildings** in Zoning By-law 569-2013, Chapter 800 Definitions, Building E and Building F, as shown on Diagram 3 of By-law 791-2023(OLT) are **townhouses**;
- (E) Despite Regulations 10.5.60.40(2), 10.80.40.10(1) and (3), the permitted maximum height of a **building**, **ancillary building** or **structure** is the number in metres following the letters "HT" and number of storeys following the symbol "ST" on Diagram 3 of By-law 791-2023(OLT);
- (F) For the purpose of this exception, a mechanical penthouse providing roof access does not constitute a **storey** and shall not include enclosed habitable space;
- (G) Despite Regulations 10.5.40.10(2), (3), (4) and (E) above, the following equipment and structures may project beyond the permitted maximum height of a **building** and/or **ancillary building**:
- (i) equipment and **structures** used for the functional operation of the **building**, such as electrical, utility, mechanical and ventilation equipment, enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, elevator overruns, mechanical penthouse, chimneys, vents, water supply facilities and fire walls to a maximum of 3.5 metres;

- (ii) **structures** that enclose, screen or cover the elements listed in (i) above to a maximum of 3.5 metres;
 - (iii) parapets, railings and guard rails, privacy screens, pergola, trellises, wind screens, wind and mitigation structures, unenclosed **structures** providing safety or wind protection to **rooftop amenity space** and building transformers, to a maximum of 2.0 metres; and
 - (iv) the total area of all equipment, **structures** or parts of a **building** and/or **ancillary building** referred to in (i) and (ii) above, may cover no more than 60 percent of the area of the roof;
- (H) For the purpose of this exception, exterior stairs, enclosed stairwells, parking elevators, garbage chutes, pergola, vents, landscape features and furniture, bicycle rings, lighting fixtures, retaining walls and features and **building** transformers may project above **grade** to a maximum of 4.5 metres;
- (I) Despite Regulation 10.80.40.40(1), the permitted maximum **gross floor area** for the lands shall be 7,490 square metres;
- (J) For the purpose of this exception, the **gross floor area** of the **buildings** on the lands shall be calculated in accordance with Regulation 10.5.40.40(3);
- (K) Despite Clause 10.5.60.50, an elevator shaft, elevator overrun and/or **structure** used for mechanical purposes shall not be counted towards the **gross floor area** of an **ancillary building**;
- (L) Despite Regulation 10.80.30.40.(1), no maximum **lot coverage** applies to the site;
- (M) Despite Regulation 10.5.60.1(4) the **ancillary building** or **structure** may be constructed prior to the erection of the **main walls** and completion of the roof of a **residential building** on the same lot;
- (N) The maximum permitted number of **dwelling units** is 82 of which:
- (i) a minimum of 75 percent of the **dwelling units** shall be two-bedroom units; and
 - (ii) a minimum of 17 percent of the **dwelling units** shall be three-bedroom units;
- (O) Despite Regulations 10.5.40.70(1), 10.5.60.20(2) and (3), and Clauses 10.80.40.70 and 10.80.40.80, the required minimum **building** and **ancillary building setbacks** and minimum above ground **main wall** separation distance are shown in metres on Diagram 3 of By-law 791-2023 (OLT);
- (P) Despite Regulations 10.5.40.50(2), (3) and (4), 10.5.40.60(1), (2), (3), (5) and (6) and (O) above, the following **building** elements may encroach into the required

minimum **building** and **ancillary building setbacks** and minimum above ground separation distance:

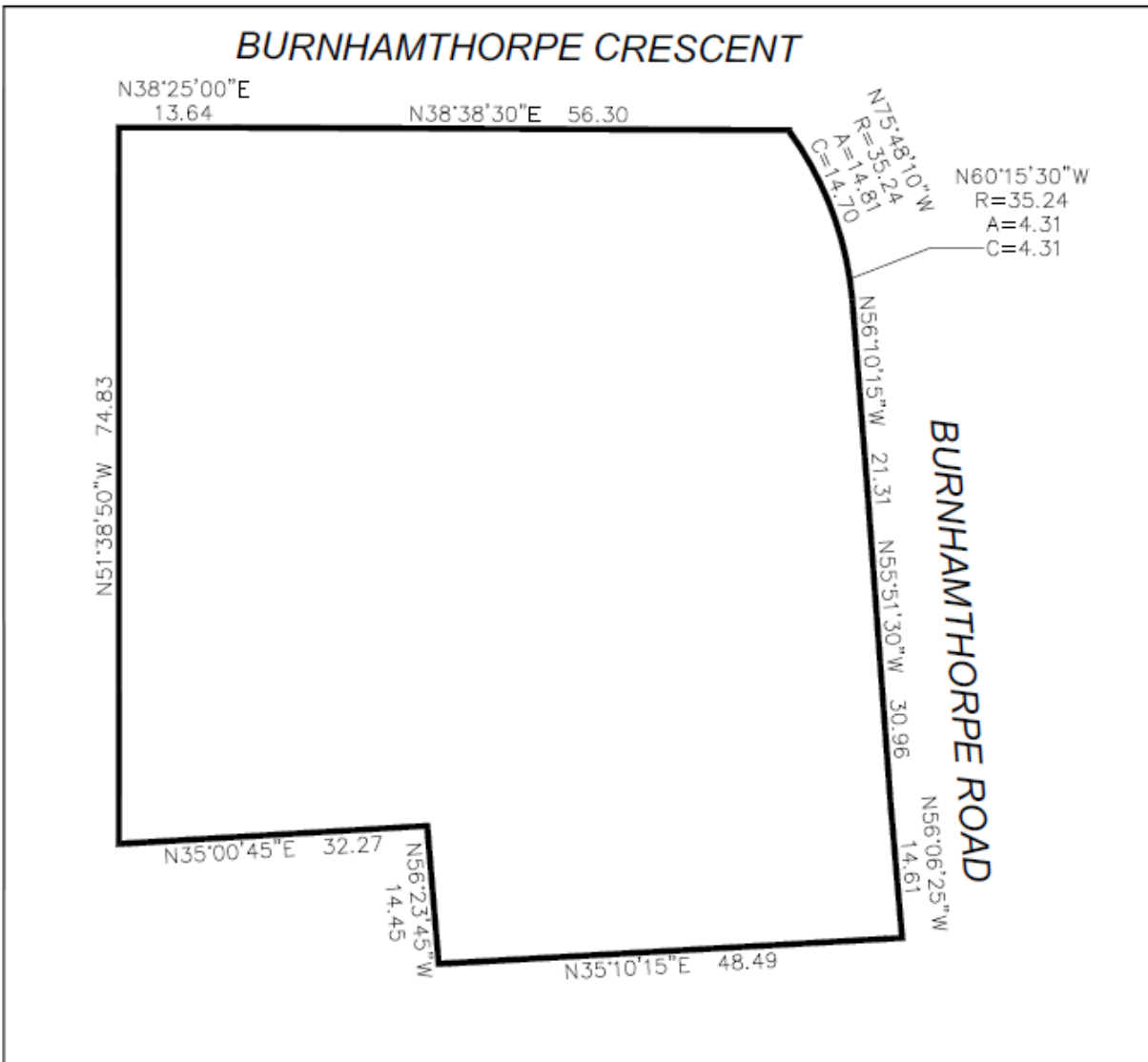
- (i) decks, deck platforms, terraces, porch, railings and guard rails, privacy screens, fences and firewalls to a maximum of 2.8 metres;
 - (ii) canopies and awnings to a maximum of 1.6 metres;
 - (iii) balcony and balcony platforms to a maximum of 1.2 metres;
 - (iv) pilasters, decorative columns, cornices, windows, window sills, wing walls, eaves, firewalls, and architectural elements or features, to a maximum of 1.0 metre; and
 - (v) exterior stairs, enclosed stairwells, parking elevators, garbage chutes, pergola, vents, landscape features and furniture, bicycle rings, lighting fixtures, retaining walls and features and building transformers;
- (Q) Despite Regulations 10.5.50.10(1), (2), (3), (4) and (5), a minimum of 48 percent of the area of the lands must be provided for **landscaping**, of which a minimum of 30 percent must be soft **landscaping**;
- (R) Despite Regulations 200.5.1.10(2)(A)(iv) and (14), a **parking space** is subject to the following:
- (i) must include a rough-in for electric vehicle charging infrastructure but is not required to be equipped with an **energized outlet**;
- (S) Despite Regulation 200.5.1.10(2)(D), **vehicle** charging infrastructure is not considered an obstruction to the sides of a **parking space**;
- (T) Despite Regulations 200.15.1(1), (3) and (4), an accessible **parking space** must be maintained in accordance with the following:
- (i) minimum width of 3.4 metres;
 - (ii) within 25 metres of a barrier free entrance to the passenger elevator; and
 - (iii) the entire length of an accessible **parking space** must be adjacent to a minimum 1.5-metre wide accessible barrier free aisle or path; and
- (U) Despite Regulations 230.5.1.10(4)(A) and (C), the minimum width of **stacked bicycle parking spaces** is 0.6 metres.

Prevailing By-law and Prevailing Sections: (None Apply).

- 6.** Despite any future severance, partition or division of the lands as shown on Diagram 1 attached to this By-law, the provisions of this By-law will apply as if no severance, partition or division occurred.

Pursuant to the Local Planning Appeal Tribunal Decision issued on May 11, 2021 in Tribunal File PL200097 and Ontario Land Tribunal Order issued on August 14, 2023 in Tribunal File OLT-22-002866 (formerly PL200097).

Diagram 1



26, 30-36 & 38 Burnhamthorpe Road and
45-49 Burnhamthorpe Crescent, Toronto

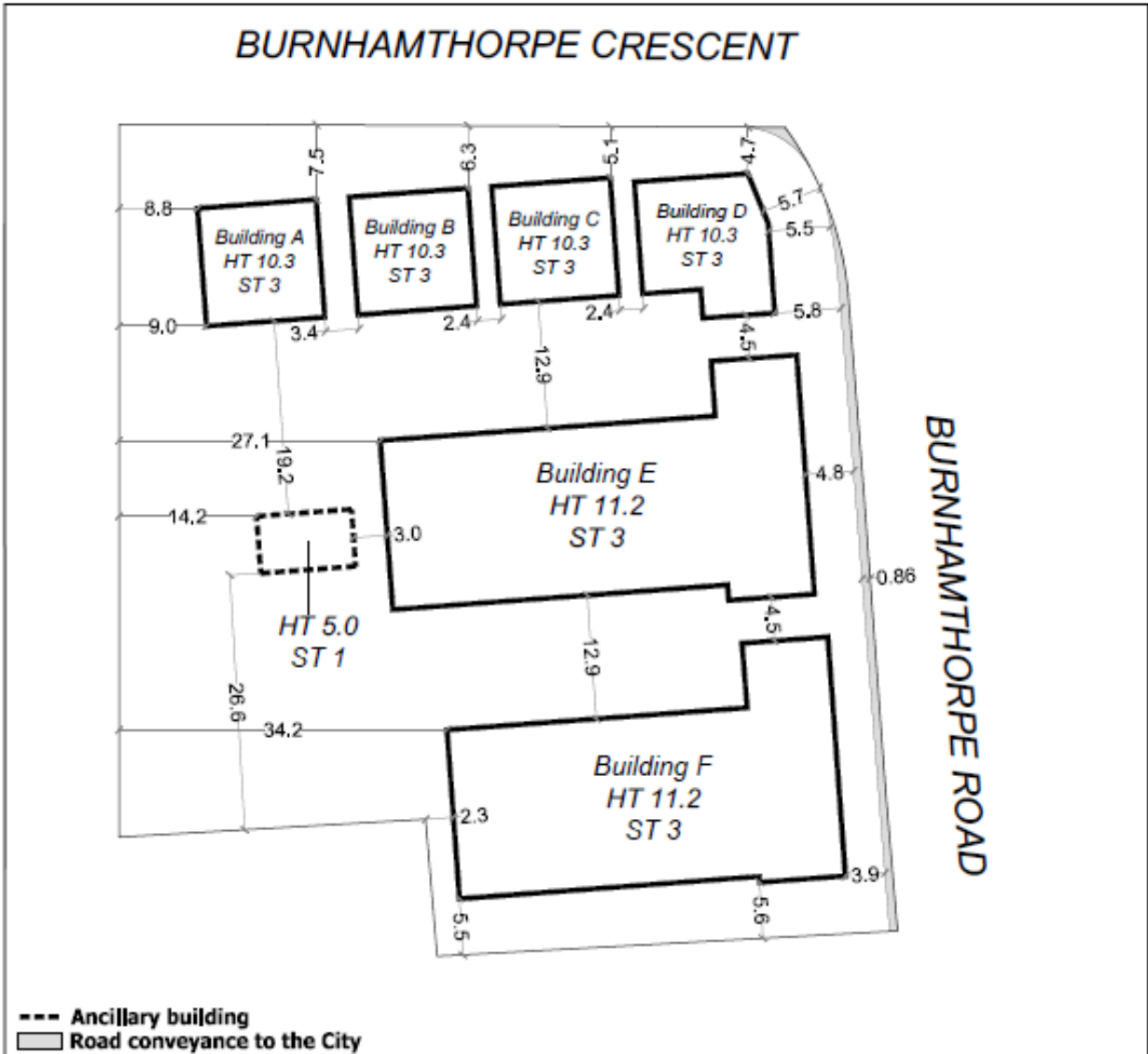
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Diagram 1



Not to Scale

Diagram 3



26, 30-36 & 38 Burnhamthorpe Road and
45-49 Burnhamthorpe Crescent, Toronto

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Diagram 3



Not to Scale