



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 133 and 141 Erskine Avenue - Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions

**Date:** January 23, 2024  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 15 – Don Valley West

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

### **SUMMARY**

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The purpose of this report is to request further instructions for the potential Ontario Land Tribunal ("OLT") hearing into this matter currently scheduled to commence on July 15, 2024, for 2 weeks. The applicant appealed the proposed Zoning By-law Amendment Application for 133 and 141 Erskine Avenue to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff contained in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it is about litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege.

## FINANCIAL IMPACT

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There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

## DECISION HISTORY

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Official Plan Amendment 405 ("OPA 405"), including the Yonge-Eglinton Secondary Plan (the "Secondary Plan"), was approved as modified by the Minister of Municipal Affairs and Housing on June 5, 2019. The Secondary Plan sets out a long-term vision for Midtown that emphasizes the importance of complete communities and the diversity of Midtown's character areas. It envisions Midtown as a green, resilient, connected and prosperous place, and where growth is directed near transit. The Secondary Plan provides guidance on the appropriate scale and location of future growth and links growth with the provision of infrastructure.

The Secondary Plan approved as modified by the Minister of Municipal Affairs and Housing, can be found here:

[https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning\\_OPA405.pdf](https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning_OPA405.pdf)

The application that is the subject of this report was submitted on December 30, 2021.

On July 19, 2023, City Council adopted an Appeal Report from the Director, Community Planning, North York District (dated June 1, 2022) regarding the Zoning By-law Amendment application (Application 21 251207 NNY 15 OZ) and directed the City Solicitor and appropriate staff to oppose the appeals before the OLT and continue discussions with the applicant in an attempt to resolve outstanding matters through Item NY6.2. The City Council decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.NY6.2>

### Appeal to Ontario Land Tribunal

On March 10, 2023, the applicant filed an appeal to the OLT citing the City's failure to make a decision on the requested Zoning By-law Amendment within the statutory timeframes set out in the *Planning Act*. On August 1, 2023, the OLT conducted a Case Management Conference on the appeal. No other parties or participants requested status at the Case Management Conference before the OLT. A two-week OLT hearing is scheduled to commence on July 15, 2024.

## COMMENTS

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The existing use is an 11-storey apartment containing 28 units, including 26 rental units with 2 one-bedroom and 24 two-bedroom rental units, and 2 ownership units. Of these units, 7 have affordable rents, 8 have mid-range rents and 11 have high-end rents.

A related Rental Housing Demolition Application proposes the demolition of the rental apartment building located at 133 Erskine Avenue including 26 rental units.

This report seeks further direction from City Council on this matter in advance of the OLT hearing set to commence on July 15, 2024, with procedural order deadlines commencing in advance of the next Council meeting and therefore this matter is urgent.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 – Confidential Information
2. Confidential Appendix "A" – Confidential Information
3. Confidential Appendix "B" – Confidential Information