



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 50 - 90 Eglinton Avenue West and 17 - 41 Henning Avenue - Official Plan Amendment and Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions

**Date:** November 4, 2024

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 8 – Eglinton - Lawrence

### 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 instructions in respect of the proceedings before the Ontario Land Tribunal ("OLT"). The applicant appealed the proposed Official Plan Amendment and Zoning By-law Amendment Applications for 50-90 Eglinton Avenue West and 17-41 Henning Avenue to the OLT as a result of Council's refusal of the applications within the time prescribed by the *Planning Act*.

The property municipally known as 50 Eglinton Avenue West is designated under Part IV, Section 29 of the *Ontario Heritage Act*.

### RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in 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", Confidential Appendix "B" and Confidential Appendix "C" 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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### **Development Application**

On July 24, 2024, City Council refused the Official Plan Amendment and Zoning By-law Amendment applications for 50-90 Eglinton Avenue West and 17-19 Henning Avenue.

The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.NY15.8>

On November 8, 2023, City Council refused the Official Plan Amendment and Zoning By-law Amendment applications for 17-41 Henning Avenue. The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.NY8.6>

### **Designation of the Property at 50 Eglinton Avenue West**

On July 16, 2019, Council stated its intention to designate the property at 50 Eglinton Avenue West under Part IV, Section 29 of the *Ontario Heritage Act*.

<https://secure.toronto.ca/council/agenda-item.do?item=2019.NY7.8>

City Council passed City of Toronto By-law 1641-2019 designating the property on November 27, 2019. By-law 1641-2019 is in effect. The designation by-law can be found here:

<https://www.toronto.ca/legdocs/bylaws/2019/law1641.pdf>

### **Heritage Permit Applications**

On November 7, 2024, the Toronto Preservation Board considered a report from the City Solicitor regarding alterations to a Designated Property municipally known as 50 Eglinton Avenue West under Sections 33 of the *Ontario Heritage Act*. The advice of Toronto Preservation Board can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PB24.2>

## **Direction to Report to November 2024 Meeting of Council**

On October 9, 2024, City Council directed the City Solicitor, in consultation with City staff, to report to the November 13-15, 2024 meeting of City Council on the outcome of discussions regarding the provision of parkland in the context of the appeals of the Official Plan Amendment and Zoning By-law Amendment for 17-41 Henning Avenue and 50-90 Eglinton Avenue West. City Council Decision Item MM22.23 may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.MM22.23>

## **Appeal to Ontario Land Tribunal**

In 2023 and 2024, the applicant filed appeals to the OLT due to Council's refusal of the requested Official Plan Amendments and Zoning By-law Amendments. The OLT conducted one Case Management Conference on part of the appeals and scheduled a hearing commencing on May 5, 2025. The Tribunal requested a status update and indicated it was prepared to schedule the remaining appeals. Given the Council direction in October, the OLT has been advised that discussions were ongoing and that the OLT would be provided with an update after the November 2024 Council meeting.

## **Related Approvals and Decisions**

### *Prior Approval*

On November 1, 2022, the OLT approved a settlement between the applicant and the City regarding the new consolidated site of 50-90 Eglinton Avenue West and 17-19 Henning Avenue. The settlement resulted in two mixed use towers at the height of 33 storeys (west tower) and 35 storeys (east tower). For the purpose of this Report, this approval will be referred to as the "Prior Approval". A copy of the OLT approved by-law for the Prior Approval can be found at the following link:

<https://www.toronto.ca/legdocs/bylaws/2022/law1263.pdf>

By-law 1263-2022(OLT) contains provisions in Schedule A pertaining to matters under the former Section 37 of the *Planning Act* and continue to be transitioned under those former provisions.

### *Committee of Adjustment*

On October 26, 2023, the Committee of Adjustment ("COA") approved a Variance application which allowed the applicant to remove the on-site office replacement as required per the above noted settlement. Office uses typically have higher floor ceilings and because of its removal, the storeys previously proposed to be office have been changed to residential. As such, despite the building still being within the envelope per the previous settlement, the overall building storey count has increased to 35 storeys (west tower) and 37 storeys (east tower).

## *Relocation of Office Uses*

At the same meeting Council considers this Report from the City Solicitor, Council is also considering Official Plan Amendment and Zoning By-law Amendment applications for each of 90 - 110 Eglinton Avenue East ([Item TE17.5](#)) (referred to as "110 Eglinton") and 150 - 164 Eglinton Avenue East, and 134 and 140 Redpath Avenue ([Item TE17.6](#)) (referred to as "134 Redpath").

110 Eglinton is identified as a donor site for the office uses removed in the October 26, 2023 COA Decision noted above from 50 - 90 Eglinton Avenue East and from 134 Redpath. The Report on 110 Eglinton from the Director, Community Planning, Toronto and East York District also states that "should the existing office space not be replaced, a total of 4,595 square metres of affordable rental housing (resulting in approximately 67 affordable rental housing units) will be secured, in lieu of office space replacement. The affordable rental housing represents 20 percent of the gross floor area of the office space including the donor sites". This arrangement for relocation of office uses and alternative option for affordable housing is proposed to be secured in the draft Official Plan Amendment and Zoning By-law Amendment for 110 Eglinton and the draft Official Plan Amendment for 134 Redpath.

## **COMMENTS**

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The lands municipally known as 50 Eglinton Avenue West are designated under Part IV, Section 29 of the *Ontario Heritage Act* and require an application under Section 33 of the *Ontario Heritage Act* to address any proposed changes to the heritage property. An Application to Alter a Designated Heritage Property was submitted to Heritage Planning staff and is being considered at the same time as this report. A City Solicitor's Report on the Heritage Permit Applications will be considered by the Toronto Preservation Board on November 7, 2024 and that advice will be considered at the same City Council meeting as this report.

On July 18, 2023, the applicant filed an Official Plan Amendment and Zoning By-law Amendment application on 17-41 Henning Avenue to permit a 34 storey residential building with a total gross floor area of approximately 25,490 square metres containing a total of 390 residential dwelling units. A total of 45 vehicular parking spaces are proposed in a 1.5 level below-grade parking structure (the "Original Henning Application").

On April 15, 2024, the applicant filed an Official Plan Amendment and Zoning By-law Amendment application on 50-90 Eglinton Avenue West and 17-19 Henning Avenue to permit a 46 and 58 storey mixed-use buildings with a total gross floor area of approximately 73,305 square metres, including 71,992 square metres of residential gross floor area and 1,313 square metres of non-residential gross floor area at-grade. A total of 1,206 residential dwelling units are proposed. Three levels of underground parking are proposed with approximately 156 residential parking spaces and 14 visitor parking spaces. The existing heritage building at 50 Eglinton Avenue West was incorporated into the new development (the "Original Eglinton Application").

Vehicular and loading access for the Original Henning Application and the Original Eglinton Application are proposed off the future east-west private laneway in between the new buildings.

As directed by Council on October 9, 2024, this report advises Council of the outcome of discussions regarding the provision of parkland in the context of the appeals of the Official Plan Amendment and Zoning By-law Amendment for 17-41 Henning Avenue and 50-90 Eglinton Avenue West. This report also seeks further direction from City Council on these matter before the OLT. On the basis to comply with Council's direction and deal with matters before the OLT, this matter is urgent.

This matter should also be considered after Council has considered 90 - 110 Eglinton Avenue East ([Item TE17.5](#)) and 150 - 164 Eglinton Avenue East, and 134 and 140 Redpath Avenue ([Item TE17.6](#)).

## **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
4. Confidential Appendix "C" – Confidential Information