

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: March 29, 2016

CASE NO(S): PL140938

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant:	Garth Trails Limited
Appellant:	Gabriel Gasbarrini
Subject:	Proposed Official Plan Amendment No. 24
Municipality:	City of Hamilton
OMB Case No.:	PL140938
OMB File No.:	PL140938
OMB Case Name:	Garth Trails Limited v. Hamilton (City)

Heard: February 23, 2016 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel

Garth Trails Limited

B. Duxbury

City of Hamilton

M. Kovacevic

**MEMORANDUM OF ORAL DECISION DELIVERED BY H. JACKSON ON
FEBRUARY 23, 2016 AND ORDER OF THE BOARD**

INTRODUCTION

[1] The City of Hamilton (the “City”) Council approved Official Plan Amendment No. 24 (“OPA 24”) to the Urban Hamilton Official Plan (the “UHOP”) and the implementing Zoning By-law No. 14-168 on July 11, 2014. OPA 24 is also known as the Ancaster Wilson Street Secondary Plan (the “AWSSP”). There are two site-specific appeals

against Council's decision to approve OPA 24. This decision is for the appeal by Garth Trails Limited (the "Appellant") for his lands at 151 and 153 Wilson Street West (the "subject lands"). The second appeal was filed by Gabriel Gasbarrini for his lands at 121 Fiddler's Green Road. It is dealt with in a separate decision.

[2] The subject lands are located east of Orchard Drive, west of Dunham Drive, with frontage on the north side of Wilson Street West. The lot is approximately 0.47 hectares ("ha"). The proposal is for a multiple dwelling geared to seniors, having a maximum density of 161 units per hectare ("uph"). There are to be 76 residential units, 52 of these will be one-bedroom units, and the remainder are two-bedroom units.

[3] The Appellant had submitted a Zoning Amendment application, deemed complete in June 2013, amended in April 2014, and an Official Plan Amendment application to the Ancaster Wilson Street Secondary Plan in the Town of Ancaster Official Plan, deemed complete in April 2014.

[4] On December 9, 2015, Council passed By-law Nos. 15-295 and 15-296 approving and adopting these development applications with further amendments. The By-laws came into force and effect on January 13, 2016. As part of the approval, Council also approved a settlement to the UHOP appeal by the Applicant in order to permit the development. To implement the proposed development, an amendment to the AWSSP Site-Specific Policy – Area C to permit a multiple dwelling having a maximum density of 161 uph is required.

[5] The settlement has been agreed to by the Appellant. Melanie Pham, planner for the City, provided land use planning opinion evidence in support of the merits of the settlement. No other persons attended the hearing to provide evidence.

EVIDENCE AND FINDINGS

[6] The subject lands are designated Medium Density Residential 2 ("MDR2") and Site-Specific Policy – Area C on Map 1 of the AWSSP, and within the Community Node

Area and Gateway Residential Area on Appendix A – Character Areas and Heritage Features in the AWSSP. The MDR2 designation permits low-rise multiple dwellings under policy 2.8.7.4a. The permitted density range is 60 – 75 uph under policy 2.8.7.4b. The maximum building height is three storeys under policy 2.8.7.4c.

[7] Currently, Site-Specific Policy – Area C refers to lands located at 143 and 153 Wilson Street West, and permits a lower minimum density of 16.95 uph. The changes proposed to the AWSSP apply only to the text of Site-Specific Policy – Area C. As described by Ms. Pham, the changes include:

- deleting the reference to 143 Wilson Street West, as the address of the lands has been updated and is now only 153 Wilson Street West. The extent of the site-specific policy area is not changing
- the policy permitting a lower minimum density is proposed to be deleted and replaced with a policy permitting a maximum density of 161 uph on the site, notwithstanding the Medium Density Residential 2 permitted densities
- an additional policy is proposed which allows a basement level walk-out at the rear of the building, in addition to the permitted three storey height limit.

[8] These proposed changes to Site-Specific Policy – Area C s. 2.8.16.3 of the AWSSP were provided in evidence at Exhibit 1, Tab 9. A clean version of the AWSSP s. 2.8.16.3 including these changes is provided as Attachment 1 to this Decision.

[9] Ms. Pham reviewed the development application and the Staff Report that recommended approval of the application. She testified that in regards to the site-specific appeal of OPA 24 in regards to the lands at 153 Wilson Street, the proposed changes to s. 2.8.16.3 provide for a development that is compatible with the surrounding area, is consistent with the general intent of the AWSSP, meets the policies of the PPS, the Growth Plan, and the UHOP.

[10] She stated the proposal is consistent with the direction in policy 2.8.6.1a of the AWSSP that states that areas within the Ancaster Community Node Area be the focus for growth, development and intensification.

[11] As noted by Ms. Pham, the increase in density is an appropriate level of intensification as the scale and form of the building is compatible with the character of the area, and there is adequate transportation and infrastructure available for the site. The increase in density is due in part to the relatively higher number of one-bedroom units; and, the proposal incorporates underground parking, permitting a larger building footprint with appropriate setbacks, height and built form.

[12] The proposed development will be setback 5.8 metres (“m”) to the rear lot line and 9.4 m to the west lot line. These setbacks, along with appropriate siting of the building, will minimize shadowing, overlook and nuisance effects on the existing townhouses adjacent to the site.

[13] The development is proposed to be a maximum height of 10.5 m, which is consistent in height with other existing development in the area. The front elevation will be 2.5 to 3-storeys in height, and up to 4-storeys in the rear, as there is a grade change to the rear that allows a basement walkout level.

[14] The proposal is consistent with the AWSSP Urban Design Guidelines in policy 2.8.12.1a, as confirmed by the City’s Urban Design staff, according to Ms. Pham.

[15] The Board is satisfied that the changes as agreed to with this settlement provide for development at this site that is compatible with the surrounding area, is consistent with the general intent of the Secondary Plan and meets the policies of the Provincial Policy Statement 2014 (the “PPS”), the Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”) and the UHOP, and the Secondary Plan policies.

ORDER

[16] The Board orders that the appeal is allowed in part and the amendment to OPA 24, to the Official Plan for the City of Hamilton is approved, as reflected by the change to Site-Specific Policy Area C, as provided in Attachment 1 to this Decision.

"H. Jackson"

H. JACKSON
MEMBER

If there is an attachment referred to in this document,
please visit www.elfo.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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ATTACHMENT 1

Site-Specific Policy – Area C

- 2.8.16.3 For the lands identified as Site Specific Policy – Area C, on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan; Land Use Plan, designated Medium Density Residential 2, and known municipally as 153 Wilson Street West, the following shall apply:
- a) Notwithstanding Policy E.3.5.7 of Volume 1 and Policy 2.8.7.4 b) of this Plan, a maximum density of 161 units per hectare shall be permitted.
 - b) In addition to Policy 2.8.7.4 c) of this Plan, a three storey building on the lands may include a basement level walk-out at the rear of the building.