



INFORMATION REPORT

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 12
COMMITTEE DATE: July 9, 2013	
SUBJECT/REPORT NO: Appeals to the Ontario Municipal Board on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Town of Ancaster Official Plan and Zoning By-law for Lands Located at 591 and 611 Garner Road West (Ancaster) (PED13104) (Ward 12)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Cam Thomas (905) 546-2424 Ext. 4229
SIGNATURE:	

Council Direction:

An application may be appealed to the Ontario Municipal Board (OMB) in accordance with the Planning Act after 180 days (Plan of Subdivision/ Official Plan Amendment), or 120 days (Zoning By-law Amendment), if Council has not made a decision on the application(s). A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council pursuant to the Planning Act was passed by City Council on May 18, 2010. The following information is provided for the Official Plan Amendment (OPA-12-013) and Zoning By-law Amendment (ZAC-12-035) applications for "Monterey Heights", a proposed medium and high density residential development, on lands located at 591 and 611 Garner Road West (Ancaster), which are the subject of these appeals.

Information:

This Information Report was prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision on planning applications to the OMB. Applications for an Official Plan Amendment and Zoning By-law Amendment for a residential development proposal known as "Monterey Heights" were submitted by WEBB Planning Consultants, on September 13, 2012, and deemed complete by the City of Hamilton on October 3, 2012. The subject lands are

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located at 591 and 611 Garner Road West, in Ancaster, which is located east of Shaver Road, as shown on Appendix "A".

The surrounding land uses include single detached dwellings abutting the easterly and westerly property lines along Garner Road West, a church abutting the rear part of the easterly property boundary, and a public works yard along the northerly boundary. The property is in close proximity to the Ancaster Wal-Mart and Canadian Tire shopping centre, and is located along a transit route.

The subject lands are within the Shaver Road Secondary Plan, and are identified as "High Density Residential", which permits a maximum density of 62 units per gross/net residential hectare.

The easterly portion of the subject lands known municipally as 591 Garner Road West is an irregular 1.7 ha parcel, which was the subject of an approval for an Official Plan Amendment and concurrent rezoning in 2008, to permit apartment buildings. The approved Official Plan Amendment (known as OPA No. 119) modified the density and height provisions to permit an increased density of 110 units per gross/net residential hectare and a maximum building height of 4½-storeys. The site-specific zoning, known as the Holding Residential Multiple "H-RM6-570" Zone, was created to facilitate the development of the site for 3 apartment buildings, consisting of two 4½-storey buildings and one 3½-storey building, comprising a total of 153 units. A number of site-specific regulations are included in the "H-RM6-570" Zone to address maximum density, maximum lot coverage, minimum setbacks, maximum building height, planting strips, and parking requirements.

The current Official Plan and Zoning By-law Amendment applications are for a modified residential proposal, and includes the property at 591 Garner Road West and the abutting parcel to the west, which the owner has acquired, known as 611 Garner Road West. The property at 611 Garner Road West is currently zoned Rural Commercial "C5-261" Zone, which permits only an earth-moving contractor's operation and a single detached dwelling. As such, a new Zoning By-law Amendment is required for the merged parcel.

The proposed development is for 144 residential units consisting of one 4½-storey, 60 unit apartment building along the easterly lot boundary of 591 Garner Road West, and 84 standard townhouse dwelling units, within eleven 3-storey townhouse blocks, to be arranged throughout the remainder of the subject lands (see Appendix "B"). The proposed zoning would maintain certain provisions of the Residential Multiple "RM6-570" Zone with respect to density, maximum lot coverage, minimum landscaped area, maximum height, balcony encroachments, and planting strips. In addition, new site-specific zoning provisions have been requested to address front and side yard

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setbacks, rear setbacks, and parking for apartment units (i.e. 1.45 spaces per unit) and townhouse units (i.e. 2.25 spaces per unit).

An Official Plan Amendment is required for this application to permit townhouses and to permit the density to be increased from 62 units to 110 units per gross/net hectare.

The applications for “Monterey Heights” were circulated on October 2, 2012, to internal Departments and external Agencies, and on October 12, 2012, to property owners within 120m of the subject property. The application was also presented to the Ancaster Advisory Committee (ACC) on December 6, 2012. The concerns raised by the ACC were primarily with respect to the project layout, density, proposed building height, and number of variances required to accommodate the proposal.

Comments were received from City Departments and outside Agencies. There were no comments received from members of the public. The Department and Agency comments included the following:

1. **Servicing:** The site is located in an area that does not have municipal storm or sanitary sewers. Sanitary capacity would be available on an interim basis from the existing sanitary sewer system on Sandhill Drive in the Ancaster Industrial Park, and will eventually be provided through the Trustwood Business Park/Cranston Property when an ultimate connection is required. However, in the Functional Servicing Report (FSR) that was required for the applications, it was determined there are issues with stormwater management that would require further follow-up from the applicant's engineer. The stormwater issues relate to the high pre-development flows, which have not been verified; the verification of the models; the identification of erosion potential; and requirements for on-site storm sewer design based on appropriate modelling requirements. Staff has determined that a revised FSR is required to address these matters.
2. **Urban Design:** Through the Formal Consultation for this proposal, the requirement for an urban design brief was identified. The applicant submitted a combined Planning Justification and Urban Design Brief, as well as a design concept to illustrate the proposed building layout and open space areas, surface parking areas, and internal roadway system. Based on staff's review, the applicant was advised that revisions to the Urban Design Brief were required.
3. **Natural Heritage:** A Tree Inventory and Tree Management Plan were submitted as part of the complete applications. Through this review, staff has determined that none of the 17 trees, which are regulated by the Town of Ancaster Tree Cutting By-law, are shown to be protected, and of 177 trees inventoried, only 8 are proposed to be preserved. The site contains a number of mature, healthy trees, which are worthy of protection, which should be retained within the

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proposed development. In particular, there are healthy Sugar Maples located on the southwest corner of the site, and Red Oak and White Pine located on the southeast part of the site.

The Tree Protection Plan, as submitted, cannot be approved. Staff requires improved hoarding techniques to address proper root protection, and has recommended that the conceptual design be revised to optimize tree protection.

4. Land Use: The proposal involves the development of townhouses as the predominant housing form within an area that is designated “High Density Residential.”

The Shaver Neighbourhood Secondary Plan intends for a balanced allocation of housing forms to serve a wide range of income groups, households, and housing needs. In Ancaster, as a whole, there is not a significant supply of apartment buildings, and the displacement of apartment sites in favour of townhouses provides a less efficient use of land and means that the choice of housing for this neighbourhood will be further reduced. Similarly, Places to Grow also encourages efficient land use and the provision of a mix of housing types. An understanding of the rationale for the proposed change to include townhouses as a predominant housing form in this area, based on Provincial and Local Planning policies, would need to be provided.

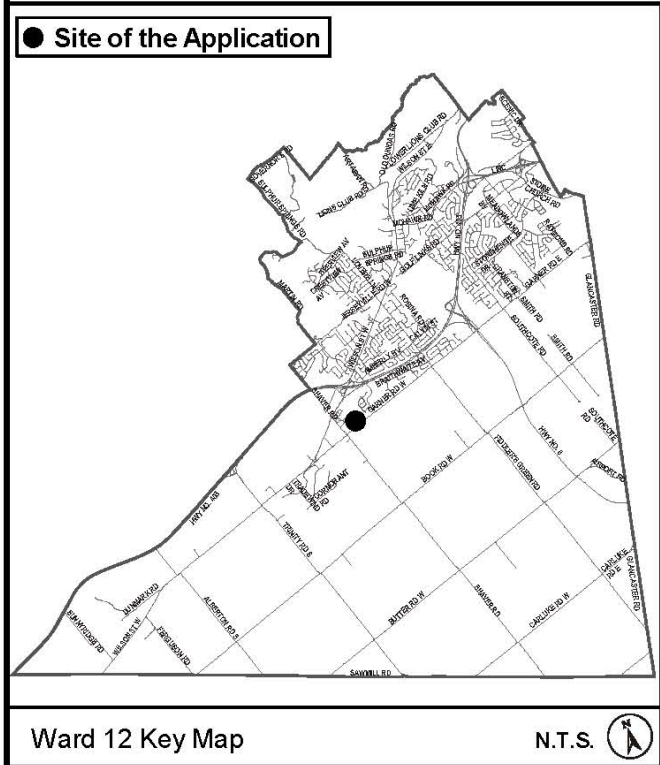
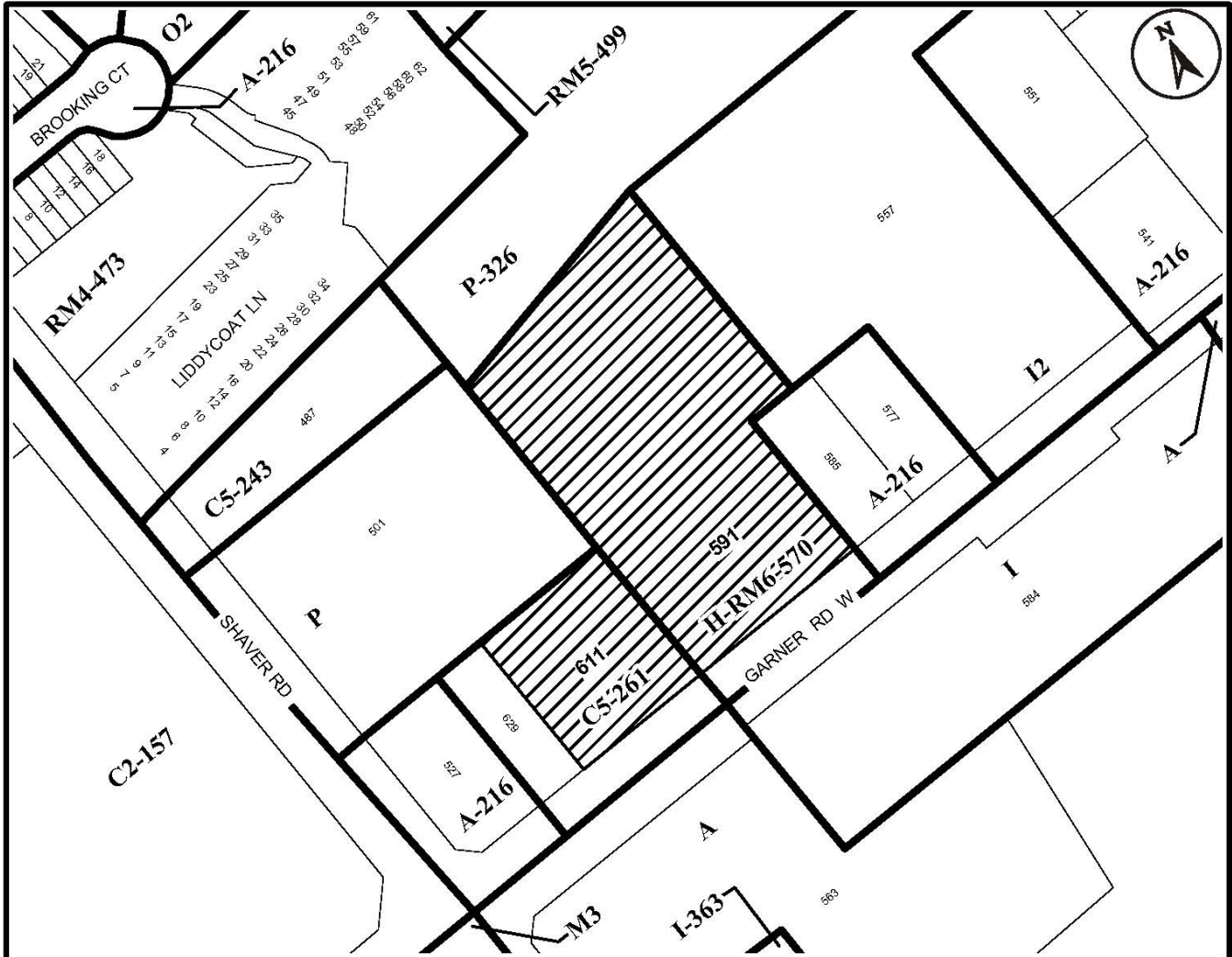
Following staff’s initial review and the comments provided to the applicant, there have been no revisions to the proposal. On April 25, 2013 (204 days after Notice of Complete Application), the applicant’s solicitor, Steve Zakem, of Aird & Berlis, filed an appeal to the OMB with respect to the proposed Official Plan Amendment and Zoning By-law applications for “Monterey Heights” for failure of Council to make a decision on the applications, in accordance with the applicable provisions of the Planning Act (see Appendix “D”).

Appendices:


- Appendix “A”: Location Map
- Appendix “B”: Proposed Development Concept for “Monterey Heights”
- Appendix “C”: Proposed Tree-Saving Plan for “Monterey Heights”
- Appendix “D”: Appeal Letter

:CT

Attachs. (4)



Location Map




Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-12-035_OPA-12-013	Date: September 26, 2012	
Appendix "A"	Scale: N.T.S.	Planner/Technician: CT/KA

Subject Property

 591 and 611 Garner Road West

Appendix "B" to Report PED13104 (Page 2 of 2)
 "Monterey Heights" Located at 591 and 611 Garner Road West (Ancaster)
 Proposed Development Concept

ZONING DATA		
	REQUIRED	PROVIDED
GROSS SITE AREA		19,029 SM, 4.702 ACRES
ROAD WIDENING AREA	415 SM, 0.105 ACRES	425 SM, 0.105 ACRES
NET SITE AREA		18,604 SM, 4.597 ACRES
LOT COVERAGE	MAXIMUM 35%	32.4% (0.0215M ² /18,604SM)
BUILDING DENSITY	MAXIMUM 125/HECTARE	77 UNITS/HECTARE
BUILDING HEIGHT	MAXIMUM 4 1/2 FLOORS, MIN. EXCEPT 3 1/2 FLOORS AND 14M WITHIN 40M OF GARNER ROAD WEST FRONTAGE	3 - 4 1/2 FLOORS
BUILDING SETBACK		
FRONT YARD	90 M	MIN 2.5 M (TO FUTURE ROAD WIDENING)
SIDE YARD	40 M	MIN 2.5 M (BLOCK 2)
REAR YARD	30 M	MIN 5.00M (BLOCK 11)
LANDSCAPING	MINIMUM 32%	32.2% (5,998SM/18,604SM)
PARKING		
CONDO (60 UNITS) CONDO VISITOR	72 SPACES (1.25/UNIT) 15 SPACES (0.25/UNIT)	72 SPACES 16 SPACES
TOWNHOUSES (84 UNITS) TH VISITOR	160 SPACES (2/UNIT) 21 SPACES (0.25/UNIT)	160 SPACES 22 SPACES
TOTAL PARKING	216 SPACES	278 SPACES

BUILDING	FLOOR AREA(SF)	FLOOR AREA(SM)	UNIT NUMBER
TH BLOCK 1	6,781	630	6
TH BLOCK 2	6,781	630	6
TH BLOCK 3	10,172	945	9
TH BLOCK 4	10,172	945	9
TH BLOCK 5	5,651	525	5
TH BLOCK 6	5,651	525	5
TH BLOCK 7	6,781	630	6
TH BLOCK 8	6,781	630	6
TH BLOCK 9	12,432	1,155	11
TH BLOCK 10	12,432	1,155	11
TH BLOCK 11	11,302	1,050	10
TOTAL TOWNHOUSES	94,938	8,620	84
CONDO	68,363	6,444	60
TOTAL	164,300	15,264	144



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NO.	ISSUED	DATE
1	TOP REVISION	DEC 5, 2012
1	REVISION PER CITY COMMENTS	JAN 21, 2013

Revision Number	Revision Description	Revision Date

DO NOT SCALE DRAWINGS. USE ONLY DRAWINGS MARKED "ISSUED FOR CONSTRUCTION". VERIFY CONFIGURATIONS AND DIMENSIONS ON SITE BEFORE BEGINNING WORK. NOTIFY ARCHITECT IMMEDIATELY OF ANY ERRORS, OMISSIONS OR DISCREPANCIES.

CHAMBERLAIN ARCHITECT SERVICES LIMITED AND CHAMBERLAIN CONSTRUCTION SERVICES LIMITED HAVE SIMILAR OWNERSHIP.

SEA



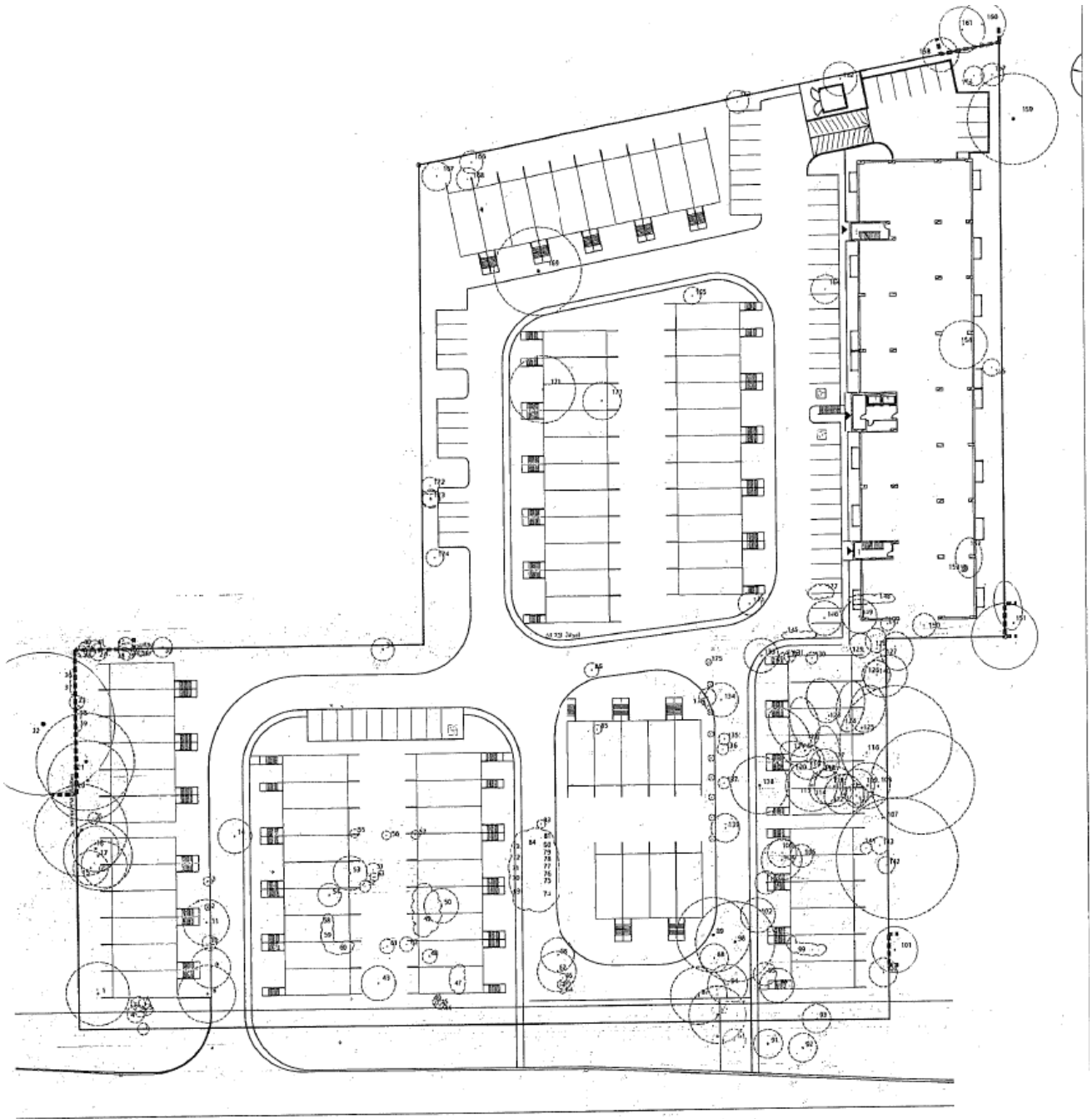
CONSTRUCTION NORTH



TRUE NORTH

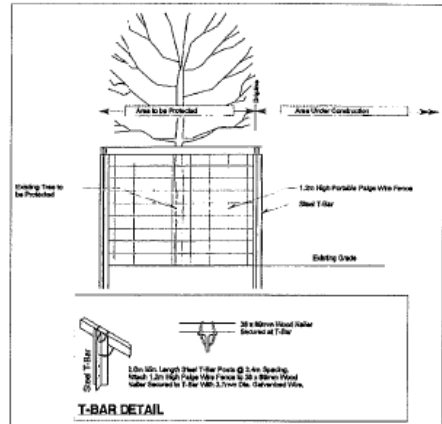
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Appendix "C" to Report PED13104 (Page 1 of 2)
"Monterey Heights" (Ancaster)
Applicant's Tree-Saving Plan



Appendix "C" to Report PED13104 (Page 2 of 2)
 "Monterey Heights" (Ancaster)
 Applicant's Tree-Saving Plan

Tree No.	Tree Species	DBH (cm)	Canopy (m)	Biological Health	Structural Condition	Recommended Action	Comments
1	Acer negundo	42	11	M	M	RC	TB
2	Thuja occidentalis	25	2	M	ML	RC	Bark damage
3	Thuja occidentalis	25	2	M	ML	RC	TB
4	Acer negundo	10	3	M	ML	RC	
5	Acer negundo	9	2	M	ML	RC	
6	Acer negundo	7	2	M	ML	RC	
7	Acer saccharum	10	2.5	M	M	RC	
8	Picea pungens	55	10	M	M	RC	
9	Picea pungens	40	7	M	M	RC	
10	Thuja occidentalis	14, 10, 12, 8	2.5	M	ML	RC	
11	Thuja occidentalis	47	8	M	M	RC	
12	Thuja occidentalis	8.6	1	M	ML	RC	
13	Thuja occidentalis	12	1.5	M	M	RC	
14	Picea glauca	32	6	M	M	RC	Thin
15	Acer saccharum	22	6	M	M	RC	UBS, roll wound
16	Acer saccharum	70	8	M	M	RC	2L base B, UBW
17	Acer saccharum	50	12	M	M	RC	UBS, wall at base
18	Acer saccharum	42	8	M	M	RC	UBHE, wall at base
19	Acer saccharum	63	16	M	M	RC	
20	Acer saccharum	48, 30	14	M	M	RC	UBS, 2L base, wall at base
21	Acer saccharum	73	17	M	M	RC	Hollow at base, wall at base
22	Populus sp.	40	15	M	M	P	
23	Acer saccharum	8	2.5	M	M	RC	Near dead branch
24	Pinus strobus	25	2	M	M	RC	
25	Pinus strobus	20	3	M	M	RC	
26	Pinus strobus	24	3	M	M	RC	
27	Pinus strobus	30	3	M	M	RC	
28	Pinus strobus	30	3	M	M	RC	soil at base
29	Pinus strobus	17	1	M	ML	RC	Urn
30	Pinus strobus	15	1	M	ML	RC	
31	Pinus strobus	24	2	L	L	R	dead
32	Pinus strobus	14	2	L	L	R	dead
33	Pinus strobus	24	3.5	M	M	RC	
34	Robinia pseudoacacia	13	4	M	M	RC	
35	Acer saccharum	8	3	M	M	RC	SU
36	Thuja occidentalis	-8	SP	M	M	RC	V, TOS
37	Acer saccharum	-6	SP	M	M	RC	V, TOS
38	Acer saccharum	5	1	M	M	RC	
39	Liquidambar styraciflua	-3	1	M	M	RC	Urn
40	Acer saccharum	6.6	1.8	M	M	P	off property
41	Acer saccharum	10	2	M	M	P	off property
42	Acer saccharum	8.8, 7.8	2.5	M	ML	P	ML base, off property
43	Picea pungens	38	8	M	M	RC	2L, urn
44	Thuja occidentalis	7	1	M	M	RC	
45	Acer saccharum	8	1.5	M	M	RC	
46	Thuja occidentalis	6	1	M	M	RC	
47	Liquidambar styraciflua	-7	SP	M	M	RC	2L
48	Thuja occidentalis	13	2.5	M	M	RC	ML base
49	Thuja occidentalis	10 to 15	SP	M	M	RC	
50	Picea glauca	28	8	M	M	RC	ML base
51	Thuja occidentalis	10	2.5	M	M	RC	
52	Thuja occidentalis	17	2	M	M	RC	
53	Pinus strobus	25	8	M	M	RC	
54	Robinia pseudoacacia	17, 10	10	M	M	RC	
55	Thuja occidentalis	10	1.5	M	M	RC	
56	Thuja occidentalis	8	1.5	M	M	RC	2L
57	Juniperus sp.	8	1.5	H	H	RC	ML
58	Liquidambar styraciflua	-10	SP	M	M	RC	
59	Campylobasium	12	SP	M	M	RC	
60	Acer saccharum	7	SP	M	M	RC	V 2L base
61	Thuja occidentalis	20	2.5	M	M	RC	ML base, T
62	Thuja occidentalis	20	2	M	M	RC	
63	Acer saccharum	8	1.5	M	M	RC	
64	Thuja occidentalis	13	1.5	M	ML	RC	Thin, SU
65	Juniperus virginiana	15	1.5	M	ML	RC	Thin
66	Juniperus virginiana	17	1.5	M	ML	RC	Thin
67	Picea glauca	40	7	M	M	RC	
68	Picea abies	35	6	M	M	RC	
69	Picea abies	22	SP	M	M	RC	UB
70	Picea abies	48	SP	M	M	RC	UB, Res. UB
71	Picea abies	14	SP	M	M	RC	SU, UB
72	Picea abies	34	SP	M	M	RC	UB
73	Picea abies	23, 29	SP	M	M	RC	2L base B, UB
74	Picea abies	29	SP	M	M	RC	UB
75	Picea abies	27	SP	M	M	RC	UB
76	Picea abies	23	SP	M	M	RC	UB
77	Picea abies	18	SP	M	M	RC	UB
78	Picea abies	15	SP	M	M	RC	SU, UB
79	Picea abies	12	SP	M	M	RC	SU, UB
80	Pinus resinosa	17	SP	M	M	RC	TH, UB
81	Pinus resinosa	11	SP	M	M	RC	SU, UB
82	Picea abies	16	SP	M	M	RC	SU, TH
83	Thuja occidentalis	16	1.5	M	M	RC	SU, TH
84	Pinus strobus	8	SP	M	M	RC	SU
85	Thuja occidentalis	12.8	1.5	M	ML	RC	TD, decline
86	Thuja occidentalis	22	2.5	M	ML	RC	decline, rotts, thin
87	Picea glauca	48	10	M	M	RC	UBW
88	Acer negundo	23	5	M	M	RC	UBS
89	Acer saccharum	65	13	M	M	RC	UBS
90	Malus sp.	15	4	M	M	RC	cranker
91	Malus sp.	15	5	M	M	RC	
92	Malus sp.	17	5	M	M	RC	
93	Taxus media	7 x 15	5	M	M	RC	
94	Picea glauca	35	7	M	M	RC	Thin, LDB, UBS
95	Picea pungens	23	4	M	M	RC	UBS
96	Picea pungens	40	8	M	M	RC	UBS
97	Picea abies	65	10	M	M	RC	UBS
98	Acer glaberrimus	75	10	M	M	RC	3L at 1.5m
99	Thuja occidentalis	4 to 15	SP	M	M	RC	
100	Malus sp.	20	5	M	M	RC	
101	Liquidambar styraciflua	25	8	M	M	P	
102	Acer negundo	7 x 10	8	M	M	RC	
103	Acer	7 x 7	4	M	M	RC	
104	Picea glauca	27	7	M	M	RC	UBS
105	Picea glauca	20	5	M	M	RC	UBN
106	Pinus strobus	4	ML	M	M	RC	Thin, decline
107	Quercus rubra	50	SP	M	M	RC	UBS
108	Quercus rubra	85	SP	M	M	RC	UBE
109	Quercus rubra	45	8	M	M	RC	TH, UBW
110	Quercus rubra	30	6	M	M	RC	UBW
111	Quercus rubra	7	4	M	M	RC	SU, W.S., Epicormic growth
112	Quercus rubra	40	7	M	M	RC	UBS



Tree No.	Tree Species	DBH (cm)	Canopy (m)	Biological Health	Structural Condition	Recommended Action	Comments
113	Quercus rubra	35	7	M	M	RC	UBS, 26 deg.
114	Quercus rubra	30	6	M	M	RC	Thin
115	Quercus rubra	35	6	M	M	RC	UBSW
116	Quercus rubra	75	SP	M	M	RC	4th - minor UBE
117	Quercus rubra	40	SP	M	M	RC	UBN
118	Quercus rubra	34	5	M	M	RC	UBW, TH
119	Quercus rubra	35	7	M	M	RC	UBW, ob - minor
120	Quercus rubra	35	8	M	M	RC	SU, UBW
121	Quercus rubra	44	SP	M	M	RC	butt mt, UBWY
122	Quercus rubra	42	SP	M	M	RC	UBW
123	Quercus rubra	02	SP	M	M	RC	UBNW
124	Quercus rubra	25	SP	M	M	RC	SU, T
125	Quercus rubra	48	SP	M	M	RC	butt mt, F, epicormic growth, SU, UBHE
126	Pinus strobus	48	SP	M	M	RC	10% butt rot, insect damage, UBSE
127	Pinus strobus	59	SP	M	M	RC	
128	Pinus strobus	23	SP	M	M	RC	
129	Pinus strobus	25	6	M	M	RC	
130	Thuja occidentalis	17	2	M	M	RC	
131	Thuja occidentalis	17	2	M	M	RC	
132	Thuja occidentalis	15, 10	2	M	M	RC	
133	Acer negundo	12 x 3	6	M	M	RC	ML base B
134	Acer negundo	18	6	M	M	RC	LW 30 deg
135	Thuja occidentalis	17	2	M	M	RC	Thin
136	Thuja occidentalis	23	2	M	M	RC	
137	Thuja occidentalis	15	2	M	M	RC	thin
138	Liquidambar styraciflua	61	10	M	M	RC	
139	Acer glaberrimus	29	6	M	M	RC	
140	Pinus strobus	13	5	M	M	RC	SU, USSW
141	Acer negundo	7	2	M	M	RC	
142	Acer negundo	11	2	M	M	RC	at fence
143	Acer negundo	7	3	M	M	RC	
144	Liquidambar styraciflua	13	4	M	M	RC	
145	Liquidambar styraciflua	10, 10, 6, 8	SP	M	M	RC	
146	Liquidambar styraciflua	14, 13	8	M	M	RC	
147	Populus sp x 2	16, 8	SP	M	M	RC	
148	Populus sp x 2	10, 16, 12, 10, 6, 20, 30	SP	M	M	RC	
149	Acer glaberrimus	30	4	M	M	RC	
150	Acer negundo	30	4	M	M	RC	
151	Acer negundo	48, 35	SP	M	M	RC	off property 50 deg, LN, Nuss
152	Populus sp.	17, 15, 10, 12	SP	M	M	RC	vine strangled
153	Populus sp.	12, 20	1	L	L	R	dead
154	Robinia pseudoacacia	<12	SP	M	M	RC	
155	Populus deltoides	16, 8	3	M	M	RC	
156	Populus deltoides	<10	SP	M	M	RC	
157	Acer negundo	12	4	M	M	RC	on slope
158	Acer negundo	16	6	M	M	RC	on solid mound
159	Acer negundo	30 x 7	18	M	M	RC	tree mt, raise Mt, 65 off property
160	Picea glauca	20	8	M	M	RC	1m over fence
161	Picea glauca	20	8	M	M	RC	1m over fence
162	Populus deltoides	11, 13, 10	6	M	M	RC	on solid mound
163	Populus deltoides	14	6	M	M	RC	30cm from fence
164	Robinia pseudoacacia	10	6	M	M	RC	
165	Betula pendula	11	3	M	M	RC	
166	Populus deltoides	19	4	M	M	RC	
167	Populus deltoides	<10	SP	M	M	RC	
168	Betula pendula	<8	SP	M	M	RC	
169	Betula pendula	<8	SP	M	M	RC	
170	Populus tremuloides	<6	SP	M	M	RC	
171	Populus deltoides	<8	SP	M	M	RC	
172	Populus sp.	10	3	M	M	RC	
173	Populus sp.	10	3	M	M	RC	ob
174	Betula pendula	15	3	M	M	RC	
175	Thuja occidentalis	3m x 18	SP	M	M	RC	6.5m from fence
176	Pinus strobus	8	3	M	M	RC	
177	Populus tremuloides	<6 cm	SP	M	M	RC	

Appendix "D" to Report PED13104 (Page 1 of 3)
"Monterey Heights" Located at 591 and 611 Garner Road West (Ancaster)
Applicant's Letter of Appeal

AIRD & BERLIS LLP

Barristers and Solicitors

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OFFICE OF THE CITY CLERK

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April 25, 2013

BY COURIER

Ms. Rose Caterini, City Clerk
City of Hamilton
City Hall
71 Main Street West, First Floor
Hamilton, Ontario L8P 4Y5

APR 26 2013

REC'D BY	T.M. Calk	DATE
REF'D TO	P. M. Allen	DATE
REF'D TO	M. M. Brown	DATE
REF'D TO	L. Brown	DATE
ACTION: J. Kelly Evans			

Our File No. 115312

Dear Ms. Caterini:

**Re: Notice of Appeal
Applications for Official Plan Amendment and Zoning By-law Amendment
591-611 Garner Road West, City of Hamilton
City File No. OPA-12-013, ZAC-12-035**

We act on behalf of Monterey Heights Development Corporation with respect to the Official Plan Amendment and Zoning By-law Amendment applications for the lands municipally known as 591-611 Garner Road West, in the City of Hamilton, (the "Subject Lands").

On October 12, 2012, WEBB Planning Consultants, on behalf of Monterey Heights Development Corporation, filed applications for Official Plan Amendment and Zoning By-law Amendment to permit the residential development of the Subject Lands with a mix of dwelling types including a low rise apartment building and a series of townhouse blocks. Eighty-four townhouse units and sixty apartment units were proposed resulting in an overall density of seventy-six units per gross hectare. The application was deemed complete by way of a Notice of Complete Application, issued by the City of Hamilton, dated October 12, 2012.

It has now been in excess of 180 days since the applications were confirmed to have been complete. As the City of Hamilton has failed to render a decision, the Applicant hereby appeals its Official Plan Amendment and Zoning By-law Amendment applications to the Ontario Municipal Board (the "Board") pursuant to subsections 17(40) and 34(11), respectively of the *Planning Act* R.S.O. 1990, c. P. 13.

The Subject Lands comprise 1.9 hectares and are located within the Shaver Neighbourhood of the former City of Ancaster, now the City of Hamilton. The property is an assembly of two abutting parcels, 591 Garner Road West and 611 Garner Road West. The lands municipally known as 591 Garner Road, were the subject of earlier planning approvals to permit the development of those lands with three low rise apartment buildings containing a total of 153 dwelling units (Municipal File Nos. OPA-06-23/ZAC-06-87). Official Plan Amendment No. 119 ("OPA 119") and Zoning By-law Amendment 08-

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060 ("By-law 08-060") were enacted by Hamilton City Council in 2008 to permit the development of 591 Garner Road.

Since that Monterey Heights Development Corporation has acquired 611 Garner Road. The applications subject to this appeal seek to reconfigure the original proposal to include the newly acquired lands. The proposal contemplates a reduction in the number of residential apartment units and the addition of townhouse blocks. The overall density of the proposed development would therefore be reduced from 110 dwelling units per hectare to 76 dwelling units per hectare.

The Subject Lands are designated *Residential* by the Town of Ancaster Official Plan and *High Density Residential* by the Shaver Neighbourhood Secondary Plan. The proposed Official Plan Amendment seeks to modify the *High Density Residential* policies and the current site specific regulations that apply to 591 Garner Road, to apply appropriate density and height provisions over the entire property and to add townhouses as a permitted use. Low rise apartment buildings would be maintained as a permitted use.

In accordance with the Town of Ancaster Zoning By-law 87-57, as amended by By-law 08-060, 591 Garner Road is zoned "H-RM6-570", Holding Residential Multiple Zone, subject to an exception. 611 Garner Road is zoned "C5-261", Rural Commercial Zone, subject to an exception, by By-law 87-57.

The proposed zoning by-law amendment seeks to apply the H-RM6-570 zoning, to the entire property subject to further site specific provisions establishing appropriate regulatory standards for the development, including the addition of block townhouses as a permitted use.

The new Urban Hamilton Official Plan (the "UHOP") was adopted by Hamilton City Council on July 9, 2009 and was subsequently approved, in part, by the Ministry of Municipal Affairs and Housing. The UHOP is currently under appeal to the Board and is therefore not in force and effect. While not directly applicable to this appeal, the policies of the UHOP provide guidance with respect to the City of Hamilton's planned vision for the area. The UHOP proposes to designate the Subject Lands *Neighbourhoods*. The proposed residential development is consistent with the relevant policies of the proposed *Neighbourhoods* designation and implements the policies for Medium Density development.

In our submission, the proposed development represents appropriate and contemplated intensification in an area that will efficiently use existing infrastructure and public service facilities. The proposed development has a compact urban form and will provide diversity to the housing stock by providing a mix of housing types at varying densities in proximity to an arterial road, shopping, public transit and a range of community facilities.

Enclosed with this notice of appeal are two cheques, each in the amount of \$125 and made payable to the Minister of Finance representing the filing fee for these appeals, and two completed OMB Appellant Forms. As it would be appropriate for these matters to be heard together, we request that the Board consolidate the two appeals for hearing.

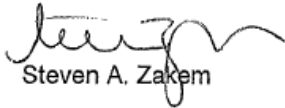
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We trust this is satisfactory. If you require additional information, please contact the undersigned or Emily Elliott, Land Use Planner, of this office at 416-865-3069.

Yours truly,

AIRD & BERLIS LLP



Steven A. Zakem

SAZ/ee

cc. A. DiCenzo
A. Buist

Encl.

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