

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



26-026-OLT Attachment 1

ISSUE DATE: November 10, 2025

CASE NO(S).:

OLT-24-001098

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O.

1990, c. P.13, as amended

Applicant and Appellant:

Highgate Holding Inc.

Subject:

Application to amend the Zoning By-law –
Refusal or neglect to make a decision

Description:

To permit a three-storey retirement home

Reference Number:

ZAC-23-010

Property Address:

299, 307 and 325 Fiddler's Green Road

Municipality/UT:

Hamilton/Hamilton

OLT Case No.:

OLT-24-001098

OLT Lead Case No.:

OLT-24-001098

OLT Case Name:

Highgate Holding Inc. v. Hamilton (City)

Heard:

September 15, 2025 by Video-Hearing

APPEARANCES:

Parties

Counsel

Highgate Holdings Inc.

Fiona A. Japaul

City of Hamilton

Melanie Benedict
Rachel McVean (*in absentia*)

DECISION DELIVERED BY YASNA FAGHANI AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION

[1] This appeal arises following the failure of the City of Hamilton (“City”) to make a decision with respect to a Zoning By-law Amendment (“ZBA”), pursuant to s. 34(11) of the *Planning Act*, to facilitate the expansion of a retirement home located at 307 and 325 Fiddler’s Green Road onto 299 Fiddler’s Green Road in the City (“Subject Property”).

[2] The Subject Property is approximately 0.21 hectares (0.52 acres) in size located east of Fiddler’s Green Road and north of Highway 403. It presently contains a single-detached dwelling with driveway access from Fiddler’s Green Road and is located immediately north of the existing Highgate Residence at 307 and 325 Fiddler’s Green Road.

[3] On September 15, 2025, the Tribunal held its first hearing event in the appeal, which was intended to be a Case Management Conference (“CMC”). In advance of the CMC, the Parties advised the Tribunal that they had reached a settlement and filed settlement materials including Minutes of Settlement. The Parties also advised that it was their intent to present a settlement proposal to the Tribunal at the CMC.

PROCEDURAL MATTERS AND STATUS REQUESTS

[4] The Tribunal confirmed with the Parties that there were no issues with service of Notice of the CMC and as such, no further notice is required. The Tribunal was in receipt of the Affidavit of Service of Anne Clifford dated June 30, 2025, which was marked as **Exhibit 1**.

[5] Prior to the CMC, the Tribunal did not receive any requests for Party or Participant status. In response to the Tribunal’s inquiry, there were no other persons or entities present at the CMC requesting Party or Participant status.

[6] Having address all the preliminary matters, the Tribunal decided to convert the CMC into a hearing to consider the Settlement. Settlement

HEARING

[7] The Tribunal received, reviewed and considered the following central materials and submissions:

- i. The uncontested opinion evidence of Glenn Wellings, Registered Professional Planner, as tendered orally as well as contained in the comprehensive affidavit, sworn August 29, 2025 (marked as **Exhibit 2** with all exhibits attached thereto);
- ii. Book of Documents filed by the Applicant, dated September 5, 2025 (marked as **Exhibit 3**);
- iii. Draft Zoning Bylaw (marked as **Exhibit 4**);
- iv. and oral submissions of the representatives of the Parties;

DECISION

[8] The Tribunal understands that the aforementioned sworn affidavit evidence of Glen Wellings reflects cooperative efforts of the Parties to resolve the matter.

[9] The Tribunal understands that the ZBA proposes to rezone the Subject Lands to Community Institutional (I2, 457) under City Zoning By-law No. 05-200 with the inclusion of a Holding Provision which will be lifted subject to the submission of a revised Functional Servicing Report and the execution of an External Works Agreement if necessary for any required improvements and/or upgrades to the municipal infrastructure.

[10] The Tribunal acknowledges that the focus of the efforts centred around design changes that would increase the planting buffer along the north property line and provide additional protection of mature trees located on the east portion of the Subject Property and along the Fiddler's Green Road frontage.

[11] The Tribunal having accepted the uncontroverted opinion evidence of Glen Wellings as presented, finds that the Application has regard to those applicable matters of Provincial interest found in s.2 of the *Planning Act*, is consistent with the Provincial Policy Statement, 2024; conform to the Urban Hamilton Official Plan City; and that the subject Application otherwise reflect principles of good land use planning;

ORDER

[12] THE TRIBUNAL ORDERS THAT:

1. The appeal is allowed and the proposed Zoning By-law attached as "**Attachment 1**" of this decision, is approved.
2. The Tribunal authorizes the municipal clerk of the City of Hamilton to assign numbers to the Zoning By-law for record keeping purposes.

"Yasna Faghani"

YASNA FAGHANI
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1**CITY OF HAMILTON****BY-LAW NO. 26-026-OLT**

To amend Zoning By-law No. 05-200 with respect to lands located at 299,307 and 325 Fiddlers Green Road, Ancaster

WHEREAS the City of Hamilton's new comprehensive Zoning By-law being Zoning By-law No. 05-200 came into force on May 25, 2005;

WHEREAS the Ontario Land Tribunal, in its Decision/Order for Case No. OLT-25- 001098 dated the 15th day of September 2025 approved the amendment to Zoning By-law No. 05-200, as herein provided;

NOW THEREFORE Council amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zoning Maps, Map No. 1344 is amended by changing the Low Density Residential (R2) Zone, and the Community Institutional (I2, 457) Zone to the modified Community Institutional (I2, 457, H208) Zone and Community Institutional (I2, 457) Zone, for the lands known as 299, 307 and 325 Fiddlers Green Road, the extent and boundaries of which are shown on Schedule "A" to this By-law.
2. That Schedule "C": Special Exceptions, is amended by adding the following new Special Exception:

"457. Within the lands zoned Community Institutional (I2, 457) Zone, identified on Map No. 1344 of Schedule "A" – Zoning Maps and described as 299, 307 and

325 Fiddlers Green Road, Ancaster, the following special provisions shall apply:

a) Notwithstanding Section 8.2.3.1 b), c), d), e), f) and g) the following regulations shall apply:

- | | |
|-----------------------|--|
| b) Minimum Front Yard | i) 6.0 metres for the lands included in Block 1 of Figure No. 47 of Schedule "F" – Special Figures. |
| | ii) 15.0 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures |
| c) Minimum Side Yard | i) 6.7 metres for a building and 3.0 metres to an underground parking garage from the side lot line measuring 68.6 metres for the lands included in Block 1 of Figure No. 47 of Schedule "F" – Special Figures |

- ii) 23.8 metres from the side lot line measuring 22.7 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures
 - iii) 10.0 metres from the side lot line measuring 30.5 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures
 - iv) 7.5 metres from the side lot line measuring 85.4 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures
- d) Minimum Rear Yard 12.0 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures
- e) Maximum Building Height
 - i) 13.0 metres for the lands included in Block 1 of Figure No. 47 of Schedule "F" – Special Figures

- ii) 9.5 metres for the lands included in Block 2 of Figure No. 47 of Schedule "F" – Special Figures

- f) Minimum Landscaped Area 34% of the lot area

- g) Maximum Capacity for Emergency Shelter, Residential Care Facility and Retirement Home A total of 167 suites and not more than 220 residents

- b) In addition to Section 8.2.3.1, the following regulations shall also apply:
 - k) Minimum Planting Strip 3.0 metres along northerly lot line with a visual barrier consisting of landscape materials including trees, shrubs, and/or hedges

 - l) Maximum Lot Coverage 35%

- c) Notwithstanding Section 5.2.1 a), the following regulation shall apply:

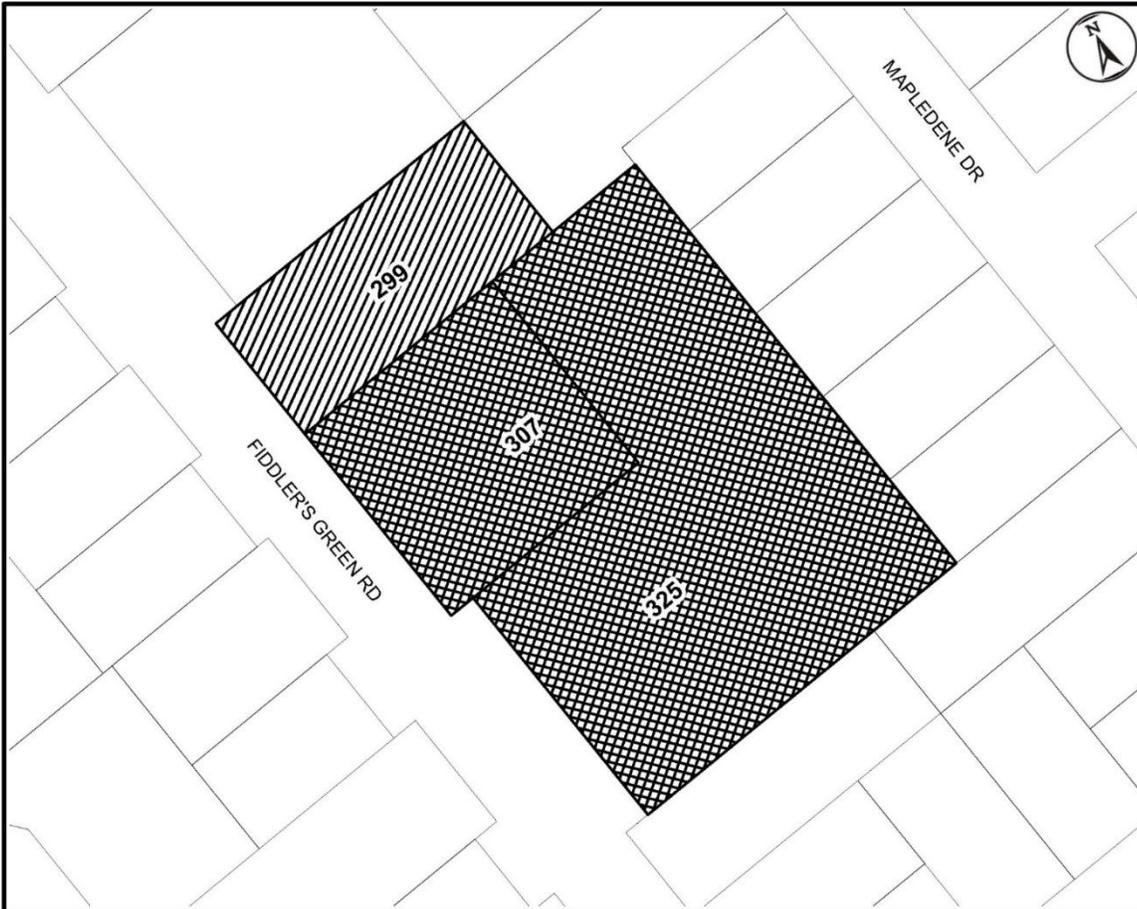
- a) Minimum Parking Space Dimensions 2.6 metres in width and 5.5 metres in length

d) Notwithstanding Section 5.2.2 a), the following regulation shall apply:

- a) Minimum Accessible Parking Space Width and Accessibility Aisle Requirements
 - i) 4.4 metres in width and 5.5 metres in length for the lands
 - ii) Notwithstanding i) above one accessible parking space shall have a minimum width of 2.4 metres and minimum length of 5.8 metres and shall be accompanied by an unobstructed accessibility aisle having a minimum width of 1.5 metre

3. That Schedule "D" – Holding Provisions is amended by adding the additional Holding Provision as follows:

- “208. Notwithstanding Subsection 8.2 of this By-law, on those lands zoned Community Institutional (I2, 457) Zone, identified on Map No. 1334 of Schedule A – Zoning Maps and described as 299 Fiddler’s Green Road, development shall be restricted in accordance with the following:
- a) That the owner submit a revised Functional Servicing Report (FSR) to demonstrate that there is adequate capacity in the existing municipal infrastructure system in accordance with City standards to accommodate the proposed stormwater and wastewater flows to support this development, to the satisfaction of the Director of Development Engineering.
 - b) That the Owner makes satisfactory arrangements with the City’s Growth Management Division and enter into and register on title of the lands, an External Works Agreement with the City for the design and construction of any required improvements to the municipal infrastructure at the Owner’s cost, should it be determined that upgrades are required to the infrastructure to support this development, according to the Functional Servicing Report accepted by the City’s Director of Development Engineering.
4. That Schedule “F” – Special Figures is amended by adding Figure 47 attached hereto as Schedule “B”.
5. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the provisions of the Community Institutional (I1, 457) Zone and the Community Institutional (I1, 457) Zone, subject to the special requirements referred to in Section No. 2 of this By-law.



This is Schedule "A" to By-law No. 26-026-OLT

Mayor

Passed the 10th day of November, 2025

Clerk

Schedule "A"

Map forming Part of
By-law No. 26-026-OLT

to Amend By-law No. 05-200
Map 1334

Subject Property

299, 307, and 325 Fiddler's Green Road, Ancaster

-  299 Fiddler's Green Road – Change in zoning from Low Density Residential (R2) Zone to Community Institutional (I2, 457, H208) Zone
-  307 and 325 Fiddler's Green Road - Community Institutional (I2, 457) Zone

Scale:
N.T.S

File Name/Number:
ZAC-23-010

Date:

September 2, 2025

Planner/Technician:

YSE/RS



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT



Special Figure 47: 299, 307, and 325 Fiddler's Green Road, Ancaster

Date:
June 13, 2025

Legend

 Block 1

 Block 2

