

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: May 15, 2026

CASE NO(S): OLT-21-001788

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Ontari Holdings Ltd.
Subject:	Proposed Plan of Subdivision - Failure of the City of Hamilton to make a decision To develop a prestige business park
Purpose:	140 Garner Road East
Property Address/Description:	City of Hamilton
Municipality:	25T-201806
Municipal File No.:	OLT-21-001788
OLT Lead Case No.:	OLT-21-001788
OLT Case No.:	Ontari Holdings Ltd. v. Hamilton (City)
OLT Case Name:	

PROCEEDING COMMENCED UNDER section 28(15) of the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, as amended

Appellant:	Ontari Holdings Ltd.
Respondent:	Hamilton Conservation Authority
Subject:	Appeal of refusal to grant permission for development
Property Address:	140 Garner Road East
Municipality:	City of Hamilton
OLT Case No.:	OLT 21-001567
OLT Case Name:	Ontari Holdings Ltd. v. Hamilton Conservation Authority

Heard: February 27, 2026 by Video Hearing

APPEARANCES:**Parties**

Ontari Holdings Ltd. (“Appellant”)

City of Hamilton (“City”)

CounselPatrick J. Harrington
Meaghan BarrettPatrick MacDonald
Brian Duxbury**MEMORANDUM OF ORAL DECISION DELIVERED BY A. SAUVE ON FEBRUARY 27, 2026 AND ORDER OF THE TRIBUNAL**

[Link to Final Order](#)**INTRODUCTION**

[1] This Settlement Hearing was convened at the request of the Parties concerning an appeal brought by the Appellant under s. 51(34) of the *Planning Act*. The application being appealed concerns the proposed development of a business park in the City. The Parties are seeking a final Order approving the Draft Plan of Subdivision and related conditions.

[2] The subject lands are located on the south side of Garner Road East, east of Fiddler’s Green Road, west of Highway No. 6, and northwest of the John C. Munroe International Airport (“subject lands”). The subject lands comprise approximately 35.27 hectares (“ha”) and are within the Airport Employment Growth District (“AEGD”) Secondary Plan area.

[3] The subject lands are designated and zoned for industrial uses, though they are currently occupied by agricultural fields, woodlots, and a 1.8 ha area that has been identified as an unevaluated wetland. There is a significant woodland located at the southeast corner of the subject lands, adjacent to the wetland feature.

[4] The proposed Draft Plan of Subdivision contemplates the creation of 18 blocks to facilitate the future development of an industrial subdivision, a stormwater management pond, and a public road. Blocks are also included on the Draft Plan of Subdivision for the existing natural heritage features on site. The specific blocks of subdivision proposed include:

- a) Two (2) Development blocks to accommodate the future industrial subdivision;
- b) One (1) Stormwater Management block to accommodate the proposed stormwater management pond;
- c) One (1) Servicing Easement block to be registered as an easement as part of the Draft Plan of Subdivision;
- d) Three (3) Road Widening blocks to be dedicated to the City for expansion of the Garner Road right-of-way;
- e) Two (2) blocks in conjunction with 'Street A' which are to be dedicated to the City for use as a temporary cul-de-sac and future right-of-way extension of Street A;
- f) Two (2) Woodland blocks to be dedicated to the City for the continued conservation of the existing woodlands on site and their respective vegetative protection zones;
- g) One (1) Wetland block to be dedicated to the City for the continued conservation of the wetland to be enhanced and partially relocated on site and its respective vegetative protection zone;

- h) Five (5) Open Space blocks dedicated to the City for the continued conservation of the existing natural areas on site and to provide natural heritage linkages; and,
- i) One (1) Linkage block to provide a natural heritage linkage along the southern property line connecting the southwesterly woodland with the southeasterly woodland.

HISTORY OF APPLICATION

[5] A previous owner of the subject lands applied for draft plan approval to implement the industrial uses permitted on the site in 2018.

[6] The Appellant and current owner proposed a revised draft plan proposal for the subject lands in 2021 and filed a request with the Hamilton Conservation Authority (“HCA”) for a permit to relocate and enhance the existing wetland on the property.

[7] In June 2021, the HCA Board of Directors refused the permit. The Appellant appealed this decision to the Tribunal. In December 2021, the Appellant also appealed Council’s failure to render a decision on its draft plan application to the Tribunal. These matters were consolidated and set down for a 15-day hearing, scheduled to commence in October 2023.

[8] The October 2023 hearing was adjourned at the Appellant’s request, to allow for additional monitoring and study in support of the proposed wetland relocation. Between 2023 and 2025, the Appellant’s consultant team engaged in further research and participated in a series of without prejudice discussions with representatives of the City. This further study and additional discussions led to further revisions to the proposed development, resulting in a settlement which is reflected in the Draft Plan (see **Attachment 1** to this Decision) and related conditions (see **Attachment 2** to this Decision).

[9] Following amendments to the *Conservation Authorities Act*, the Appellant withdrew its HCA permit appeal.

STATUS REQUESTS

[10] The Tribunal did not receive any Party status requests.

[11] The Tribunal had previously granted Participant status to 27 people. The Tribunal received a further 31 Participant status requests prior to this hearing. Two of those requests, from Linda Nelles and Debarah Boyd, were blank and rejected. The remaining requests were granted. The following are new Participants to this appeal:

1. Dr. Sally McKay
2. Catherine Thomas
3. Paul deGroot
4. Sarah Bradbury
5. Lindsay Dandridge
6. Lindsay Potts
7. Heather Bancroft
8. Ellen Wall
9. Doreen Stermann
10. Miriam Sager
11. Mike Gill
12. Jessie Chang
13. Jen Rogers
14. Ontario Nature (Sarah Hasenack)
15. Caroline Hill Smith
16. Jaime MacLean
17. Victoria Koch
18. Trish Vanson

19. Melanie Bonanno
20. John David Moffatt
21. Hamilton Naturalists' Club (Jen Baker)
22. Sue Yarwood
23. Matthew Walker
24. Susan and Hub Kennedy
25. Judith Green
26. Dorothy McIntosh
27. Julie Palmese
28. Six Nations of the Grand River Elected Council (SNGREC) – Emmett Vanson
29. Brittany N. Zigmond

EVIDENCE

[12] The following were made exhibits at this Hearing:

1. Affidavit of Service of Meaghan Barrett sworn February 25, 2026
2. Settlement Motion Record

[13] The Parties presented two witnesses in support of their settlement agreement who both provided evidence by way of Affidavit and *viva voce*:

1. Matt Johnston – A professional land use planner whom the Tribunal qualified to provide expert opinion evidence in the field of Land Use Planning.
2. Ken Glasbergen – A senior ecologist whom the Tribunal qualified to provide expert opinion evidence in the field of Ecology.

[14] The witnesses informed the Tribunal that the Draft Plan and Draft Conditions:

- implement the existing Airport Prestige Business (M11) Zone and Airport Prestige Business land use designation on the subject lands;
- protect and enhance the natural heritage features on the subject lands and their functions by providing appropriate buffers and connections, resulting in a net ecological benefit for the natural heritage system;
- increase the size of the wetland, which will increase from an area of 1.8 ha to 2.8 ha;
- allow for the enhancement and partial relocation of the expanded wetland; and
- provide for development that implements the eco-industrial vision in the AEGD Secondary Plan.

[15] Mr. Johnston led the Tribunal through criteria under s. 51(24) of the *Planning Act* and proffered that the proposed development has regard to “the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality” and to the criteria listed in clauses 51(24)(a) to (m).

[16] Mr. Johnston provided evidence that the Proposed Settlement is not premature as the required studies have been completed and demonstrate that the proposed use is appropriate and can proceed. He also testified that the Zoning By-law that applies to the subject lands includes an existing Holding Provision which requires the submission of an updated Functional Servicing Report, a Transportation Impact Study, and addresses Development Engineering comments and that this Holding Provision ensures that development cannot proceed on the subject lands until adequate servicing is available.

[17] Concerning the Draft Plan Conditions in **Attachment 2** to this Decision, Mr. Johnston opined that they will provide for the orderly development of the municipality and that any necessary updates to required studies or additional studies to be completed will be secured through the Draft Plan Conditions and future site plan approval.

[18] Overall, Mr. Johnston opined that the proposed Draft Plan of Subdivision has appropriate regard for matters of provincial interest as identified in the *Planning Act*, is consistent with the applicable polices of the Provincial Planning Statement, 2024 (“PPS”), conforms with and implements the goals and objectives of the Urban Hamilton Official Plan (“UHOP”) and the AEGD Secondary Plan, and implements the intent of the City of Hamilton Zoning By-law No. 05-200 (“ZBL”).

[19] Mr. Glasbergen testified that the Settlement being proposed meets the City’s and AEGD’s biodiversity, tree cover, and eco-industrial park initiatives, and that the proposal aims to increase plant and wildlife habitat diversity on the site and expand the size of the wetland and Significant Woodland.

[20] Mr. Glasbergen also testified that the proposed Settlement is consistent with the natural heritage policies in the PPS and conforms with the natural heritage policies of the UHOP, including the natural heritage policies in the AEGD.

[21] Ultimately, Mr. Glasbergen opined that the Settlement Proposal provides a development application that will result in the protection and enhancement of the property’s key natural heritage features. He opined that this Settlement Proposal meets the City’s and AEGD’s biodiversity, tree cover, and eco-industrial park initiatives, is consistent with the natural heritage policies in the PPS, and conforms with the natural heritage policies of the UHOP, including the natural heritage policies in the AEGD Secondary Plan.

PARTICIPANT STATEMENTS

[22] The Participant Statements are generally not supportive of the Application for various reasons, including as set out below, along with the Tribunal's summary of the related uncontested evidence/submissions:

1. Concern over the removal of the wetland – The Tribunal was provided evidence that the wetland is not proposed to be removed from the property. A portion of the wetland is to be maintained in its existing location, and a portion of the wetland is proposed to be realigned. Overall, the size of the wetland will be increased by approximately 1 ha.
2. Concern for downstream flooding – The Tribunal was provided evidence that the Functional Servicing report from Odan Detech provides detailed flood modelling and that the proposed development does not pose a downstream flooding risk.
3. Concern for the loss of biodiversity of both plants and animals – The Tribunal was provided evidence that the area of the current wetland was ploughed and cropped until approximately the mid-1970s and, as a result, the wetland form is very uniform, which strongly influences its current form and function. Also, the homogeneous nature of the wetland has created conditions favourable to a limited number of plant species and provides habitat for only a limited number of wildlife species. The Tribunal was informed that the realigned wetland will be planted with a much greater diversity of plant species and will support a much more diverse wildlife habitat structure.
4. One of the Participants, Emmett Vanson on behalf of Six Nations of the Grand River Elected Council, raised that the First Nation was not consulted regarding this application. The duty to consult flows from the

honour of the Crown and is constitutionalized by section 35 of the *Constitution Act*, 1982. Where conduct that could have an adverse impact on section 35 Aboriginal or treaty rights, the Crown has a duty to consult with the rights holding group and, where appropriate, accommodate the rights. The duty to consult can arise in relation to established treaty rights and in relation to rights not yet determined. (*Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, 2004 SCC 73)

However, the issues raised in the Participant Statement are generalized environmental concerns and do not raise any specific potential negative effects to their Aboriginal and Treaty Rights. As such, a consultation was not necessary for this application as the relevant test was not met.

ANALYSIS AND FINDINGS

[23] Having reviewed the uncontested and uncontroverted affidavit and *viva voce* evidence of Mr. Johnston and Mr. Glasbergen, the Tribunal finds that the revised application for the Draft Plan of Subdivision has appropriate regard for the matters of Provincial interest as identified in the *Planning Act*, is consistent with the applicable policies of the PPS, conforms with and implements the goals and objectives of the UHOP and the AEGD Secondary Plan, and complies with and implements the ZBL.

[24] The revised proposal and the proposed conditions adequately address the various planning evaluation criteria set out in the Provincial and local policy framework. Several Participant Statements were received from members of the community in relation to this application. The Participant Statements expressed common themes of ecological concerns, including the proposed treatment of the wetland and resulting hydrogeological, flooding, and other impacts to the watershed. The Tribunal finds that the concerns raised by the Participants are addressed by the proposal and the related conditions of approval.

[25] The Tribunal grants the appeal in part and finds the proposed Draft Plan of Subdivision and related conditions are in the public interest and represent good planning.

ORDER

[26] **THE TRIBUNAL ORDERS THAT** the appeal is allowed in part, and:

1. The draft plan of subdivision, attached as **Attachment 1** to this Decision, is approved, subject to the fulfilment of the conditions set out at **Attachment 2** to this Decision;
2. The 29 persons listed in paragraph [11] of this Decision are granted Participant Status.
3. The Tribunal may be spoken to in the event there are difficulties implementing **this Order**.

“A. Sauve”

A. SAUVE
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 2

58

Special Conditions for Draft Plan of Subdivision Approval for 25T-201806

That this approval for the Draft Plan of Subdivision, 25T-201806, prepared by The Odan/Detech Group Inc., and certified by _____, O.L.S., dated _____, 2026, consisting of two blocks for a range of employment uses (Blocks 1 and 2), five open space blocks (Blocks 3 to 5, 7 and 8), a future right-of-way dedication block (Block 6), a stormwater management block (Block 9), a relocated wetland block (Block 10), two woodland blocks (Blocks 11 and 12), a municipal servicing easement block (Block 13), three road widening blocks (Blocks 14 to 16), a temporary cul-de-sac block (Block 17), a linkage block (Block 18), and a public road (Street 'A'), be received and endorsed by City Council with the following special conditions:

Development Engineering:**PART 1 – GENERAL CONDITIONS:**

1. That the owner agrees in writing that they will be responsible for the design and construction of the stormwater management (SWM) facility and will maintain the facility entirely at the owner's expense until it is assumed by the City including the following commitments:
 - i. To submit an operation and maintenance manual as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009);
 - ii. To inspect and monitor the Stormwater management facility upon commencement of construction or pre-grading of the subject lands through to assumption of the facility by the City in accordance with the conditions of ECA issued by MECP;
 - iii. To keep detailed logs concerning Stormwater management facility performance and maintenance, including costs of cleaning and removal of sediment and to submit such logs to the City during pre-grading and construction activities in accordance with the operation manual;
 - iv. To construct, operate, and maintain at the owner's expense, the Stormwater management facility, in a manner acceptable to the City, including any changes to conditions of the MECP's approval, throughout servicing of all stages of draft plan registration and development of all registered lots and blocks, or until such time as determined by the Director of Growth Management and Chief Development Engineer; and,
 - v. To remove sediment from the Stormwater management facility attributed to development, carry out a topographic survey, and verify volumetric capacity of the Stormwater management facility prior to release of the owner's operation and maintenance responsibilities for the Stormwater management facility;

all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

2. That the owner acknowledges and agrees in writing, that a detailed stand-alone stormwater management report will be required for Site Plan Application(s) for Blocks 1 and 2 to be prepared by a professional engineer, to the satisfaction of the Director of Growth Management and Chief Development Engineer. The SWM design shall consider the following:

- i. Demonstrate how stormwater quantity and quality controls for the subject development will be handled through the proposed stormwater management (SWM) measures in accordance with the approved subdivision Functional Servicing and Stormwater Management Report, the City of Hamilton Drainage Policy, City of Hamilton Comprehensive Development Guidelines and Financial Policies Manual (current) and the MECP Stormwater Management Planning and Design Manual (2003);
- ii. Demonstrate how 'Level 1' stormwater quality control will be provided for the proposed development considering treatment train design principles using low impact development (LIDs) that are surface-based and incorporate filtration by infiltrating a minimum of 10mm runoff, and how water balance infiltration target and runoff volume retention target using LIDs will be achieved in accordance with Airport Employment Growth District (AEGD) Sub-Watershed Master Plan, AEGD Eco-Industrial Design Guidelines, and City's Green Standards and Guidelines for Site Servicing; and,
- iii. The on-site infiltration systems shall be designed considering infiltration rate (to be determined based on in-situ infiltration test) with appropriate factor of safety and drawdown time not exceeding 48 hours (although 24-hour drawdown time is preferable) in accordance with AEGD Subwatershed Master Plan, Eco Industrial Design Guidelines for the AEGD Lands, and City Green Standards and Guidelines for Site Servicing;

all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

3. That the owner agrees to complete the necessary transfer deeds to register servicing easement Block 13 in favour of the City of Hamilton, at their costs, and to the satisfaction of the Director of Growth Management and Chief Development Engineer. Furthermore, the owner agrees that the said easement shall provide for a 12.0 m inside radii at the 90 degree bends to facilitate turning of maintenance vehicles as well appropriate staging areas, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
4. That the owner acknowledges and agrees that servicing of the subject lands cannot commence until the new sanitary pumping station within the property at

370 Garner Road East, has been constructed to provide for a sanitary outlet for the draft plan lands, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

PART 2 – PRIOR TO REGISTRATION OF THE FINAL PLAN OF SUBDIVISION:

5. That, **prior to registration of the final plan of subdivision**, the owner shall dedicate Blocks 14, 15 and 16 to the City of Hamilton as a public highway under the owner's Certificate on the final plan of subdivision, to establish the widened limit of Garner Road East at approximately ± 18.288 m from the centreline of the original road allowance, all to the satisfaction of the Director of Growth Management and Chief Development Engineer and the Manager of Transportation Planning.
6. That, **prior to registration of the final plan of subdivision**, the owner shall dedicate Block 6 to the City of Hamilton as a public highway under the owner's Certificate on the final plan of subdivision, to provide for the future extension of Street 'A', all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
7. That, **prior to registration of the final plan of subdivision**, the owner shall dedicate Block 10 to the City of Hamilton as an open space under the owner's Certificate on the final plan of subdivision, to provide for installation of the relocated wetland, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
8. That, **prior to registration of the final plan of subdivision**, all daylighting triangles shall be established on the final plan of subdivision in accordance with City Standards for the draft plan and dedicated to the City of Hamilton, to the satisfaction of the Manager of Transportation Planning and the Director of Growth Management and Chief Development Engineer.
9. That, **prior to registration of the final plan of subdivision**, the owner shall submit the necessary transfer deeds to the City's Legal Department to transfer adequate lands for the stormwater management (SWM) facility block (Block 9), subject to an approved stormwater management design, as required, within the draft plan, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
10. That, **prior to registration of the final plan of subdivision**, the owner shall revise the draft plan to establish a 0.3 m reserve block along the west side of Street 'A' adjacent to the neighbouring lands and submit the necessary transfer deeds to the City's Legal Department to transfer the 0.3 m reserve block, to be dedicated to the City by the owner's certificate on the plan, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

11. That, **prior to registration of the final plan of subdivision**, the owner agrees to transfer to the City and designate as public highway, a temporary turning circle at the south limit of Street 'A' (Block 17). The said block shall be merged with the open space lands upon the extension of the road through the Hydro corridor, all to the satisfaction of the Director of Growth Management and Chief Development Engineer and the Manager of Transportation Planning.
12. That, **prior to registration of the final plan of subdivision**, the owner shall agree to provide an adequately sized utility easement adjacent to the proposed right-of-way (ROW) in favour of all utility companies, if required, in a form satisfactory to the utility companies, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
13. That, **prior to registration of the final plan of subdivision**, the owner shall pay for the future urbanization of Garner Road East based on the City's "New Roads Servicing Rates" in effect at the time of payment in accordance with the City's Financial Policies and the frontage of the property, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
14. That, **prior to registration of the final plan of subdivision**, the owner shall submit sufficient details to demonstrate that the proposed right-of-way width can accommodate the typical road cross section, complete with sidewalks/multi-use paths, bioswales/ditches, street furniture, utilities, etc., all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
15. That, **prior to registration of the final plan of subdivision**, the owner agrees that they will perform all required Winter Maintenance activities on all Public Highways within the registered Plan in accordance with Ontario Regulation 239/02 Minimum Maintenance Standards for Municipal Highways under the *Municipal Act, 2001* (MMS) until the criteria for municipal Winter Maintenance activities are met. Additionally, the owner commits to submitting an application to the City for assuming Winter Maintenance responsibilities before September 15th, provided that the following criteria is met:
 - i. Sites are easily accessible;
 - ii. Roads are free of all construction debris and have at least the base course asphalt completed;
 - iii. Trucks can enter and exit without backing up; and,
 - iv. Utility chambers are either ramped at a minimum of 2.0 metres from each chamber or set to grade;all to the satisfaction of the Manager of Roadway Maintenance.
16. That, **prior to registration of the final plan of subdivision**, the owner agrees that prior to the installation of the permanent Street Name Signs by the City, the owner shall install temporary street name signs, consisting of a painted and

legible sign on wooden backing, fastened securely to a post 2.6 metres above ground level (to bottom of sign) shall be erected at all street intersections within the subdivision immediately following base course asphalt placement. The signs shall be visible from both directions (i.e. double sided). The street name signs shall be maintained until such time as all boulevard grading has been completed, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

17. That, **prior to registration of the final plan of subdivision**, the owner shall design, install, and energize the street lighting system, entirely at the owner's expense, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
18. That, **prior to registration of the final plan of subdivision**, the owner shall pay the appropriate fees for the installation of street signage, in accordance with the City's standards and the City's current user fees schedule, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

PART 3 – PRIOR TO PRELIMINARY GRADING:

19. That, **prior to preliminary grading**, the owner shall submit a detailed Stormwater Management (SWM) report prepared by a professional engineer that includes, but is not limited to, the following parameters below:
 - i. Demonstrate how stormwater quantity, quality including erosion controls for the subject development will be handled through the proposed stormwater management (SWM) measures in accordance with the Airport Employment Growth District (AEGD) Subwatershed Study and Stormwater Master Plan, June 2011, AEGD Subwatershed Study and Stormwater Master Plan Implementation Document, April 2017, Stormwater Management Report, the City of Hamilton Drainage Policy, City of Hamilton Comprehensive Development Guidelines and Financial Policies Manual (current) and the MECP Stormwater Management Planning and Design Manual (2003);
 - ii. Demonstrate how the post development flows will be controlled to lesser of predevelopment flows or unitary flow rates identified in AEGD Subwatershed Study and Garner Neighbourhood Subwatershed Study for all ranges of storm events including the 100-year event through the proposed SWM system;
 - iii. The owner acknowledges and agrees to confirm that the imported soil fills are conducive to infiltration and can meet the LID requirement in accordance with AEGD Subwatershed Master Plan, Eco Industrial Design Guidelines for the AEGD Lands, and City Green Standards and LID Guidelines;
 - iv. The municipal infiltration systems within the right-of-way shall be designed to infiltrate a minimum of 10 mm rainfall considering infiltration rate (to be

determined based on in-situ infiltration test) with appropriate factor of safety and drawdown time not exceeding 48 hours (although 24-hour drawdown time is preferable) in accordance with AEGD Subwatershed Master Plan, Eco Industrial Design Guidelines for the AEGD Lands, and City Green Standards and LID Guidelines;

- v. Demonstrate with erosion exceedance analyses that the potential for excess erosion within the watercourse downstream of the proposed outlet will be mitigated by proposed stormwater management measures;
- vi. Demonstrate that the hydraulic grade line (HGL) for the post-development 100-year return period flow will be a minimum of 0.30 m below the top of grate elevation at all applicable inlet locations and the 5-year HGL will be within storm sewers based on water surface elevations in the proposed pond;
- vii. Demonstrate the hydraulic grade line (HGL)/water surface (WS) elevation in the drainage swale is considering the water surface elevation in the proposed dry pond;
- viii. Demonstrate that the proposed dry pond is of sufficient size and shape to meet the allowable target flow rates for the subject lands in accordance with the Ministry of Environment, Conservation and Parks (MECP), City Guidelines, and AEGD sub-watershed study and master plan recommendations; and,
- ix. Demonstrate how the pre-development water balance is going to be maintained and provide sufficient details to clarify the amount of clean water that must be directed from the proposed development, from the initial to the ultimate development stage, to discharged into the relocated wetland to maintain this feature;

all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

- 20. That, **prior to preliminary grading**, the owner shall prepare and submit a detailed grading plan to demonstrate that the minor and major flows from Block 1 and Street 'A' are conveyed to the proposed SWM facility (Block 8), to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- 21. That, **prior to preliminary grading**, the owner shall prepare and submit a detailed grading plan to demonstrate that the transitional grading within the ultimate right-of-way (ROW) of Garner Road East complies with City's grading policy, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
- 22. That, **prior to preliminary grading**, if it is deemed necessary to grade on lands not owned by the owner, the owner shall obtain the necessary permission/consent from the affected landowners for the proposed grading encroachment on their properties required for the construction of the Draft Plan

of Subdivision. If permission cannot be obtained, the owner must provide interim design options at the owner's cost, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

23. That, **prior to preliminary grading**, the owner shall prepare and submit a Construction Management Plan and Report that provides:
- i. Details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes, etc.;
 - ii. Location and maximum dimensions of stockpiling;
 - iii. Identification of any required sidewalk and/or lane closures and the estimated length of time for such closures;
 - iv. Details on heavy truck routing;
 - v. Alternate arrangements of any City or school bus routing and stop locations that may be impacted; and,
 - vi. A detailed plan and procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision. This document will also include first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works as well as contractor/agent contact information so that the City can direct the work to be completed as necessary;

all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

24. That, **prior to preliminary grading**, the owner shall submit a Hydrogeological Brief / Report conducted by a qualified professional (P.Eng., P.Geo.) that adequately characterizes the subsurface soil and groundwater conditions of the site and potential requirements for groundwater control and dewatering. At minimum, this report shall discuss the following:
- i. Seasonal high groundwater levels;
 - ii. Excavation depths;
 - iii. Dewatering calculations (on a L/s and L/day basis);
 - iv. Groundwater quality to establish baseline conditions and confirm suitability for groundwater discharge; and,
 - v. Hydrogeological impact assessment.

The report shall also include a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:

- i. An aquifer is breached during construction;

- ii. Groundwater is encountered during any construction within the subdivision including but not limited to, house and pond construction;
- iii. Sump pumps, if required, are found to be continuously running;
- iv. Water supply and sewage disposal systems, and any surface and groundwater related infrastructure, are negatively impacted; and,
- v. Demonstration of no permanent dewatering to the municipal systems are required;

all to the satisfaction of the Director of Growth Management and Chief Development Engineer, and Director of Hamilton Water.

25. That, **prior to preliminary grading**, the owner, through a geotechnical engineer or other qualified professional, shall: check if any existing wells which provide potable water supply to other properties located within a 500 m radius of the subject lands to establish the existing depth of water within wells prior to the commencement of construction; monitor these wells during construction; and monitor wells for a period of one year after the completion of construction. If any problem arises, the monitoring program shall be extended, and the owner shall address and resolve all issues, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
26. That, **prior to preliminary grading**, the owner agrees to provide an Excess Soil Management Plan to demonstrate how the development will comply with O.Reg. 406/19, addressing registration, assessment, sampling, and analysis, characterization, source/destination, reporting and tracking requirements, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
27. That, **prior to preliminary grading**, on any portion of the site that is within the regulatory authority of the Hamilton Conservation Authority, the owner shall provide to the City of Hamilton, any required permit(s)/approval from all associated conservation authorities, specifically in the areas associated with and adjacent to the existing wetland, hazard lands/environmentally sensitive area (ESA), pursuant to Ontario Regulation 41/24, for the development in a regulated area and interference with a wetland, including the replication of the wetland, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
28. That, **prior to preliminary grading**, the owner agrees to submit a surface water monitoring plan, prepared by a qualified professional, and establish 2 monitoring locations as per City direction in order to monitor drainages through the relocated wetland and proposed storm outfall at the north side of Gamer Road East, northerly, to ensure the SWM concept function as per the approved design. The monitoring plan shall be used for surface flow calibration of pre-development, during construction, and post construction period in accordance with Section 7.1 of the Airport Employment Growth District (AEGD Subwatershed Study

Implementation Document. The development impact monitoring plan shall develop baseline conditions of the downstream systems and the monitoring shall occur throughout the construction of the subdivision and for a period of not less than 2 years after all lot/blocks within the approved draft plan are fully developed. In the event a problem arises, the owner further agrees to take the necessary remedial action as per the monitoring report, at their cost. The engineering design and cost estimate schedules for the outlet works shall include a minimum of \$100,000.00 cash security for potential remedial works. The security shall not be released or reduced until it has been demonstrated that there are no impacts as a result of development for a period of not less than 2 years after full buildout of the draft approved plan, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

29. That, **prior to preliminary grading**, the owner shall obtain all required approvals from Airport Authority/Transport Canada, as it relates to the stormwater management (SWM) strategy, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

PART 4 – PRIOR TO SERVICING:

30. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules provisions for the proposed stormwater management (SWM) facility (in Block 9) to accommodate the subject development, including all applicable external lands, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
31. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules a provision for the proposed sanitary sewer located under the relocated wetland and Highway No. 6 to be properly lined, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
32. That, **prior to servicing**, the owner shall submit a geotechnical report prepared by a qualified professional engineer and implement the report's recommendation with respect to the design of the liner within the Stormwater Management (SWM) Pond, if required, and with respect to the implementation of LID measures in accordance with City standards, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
33. That, **prior to servicing**, the owner acknowledges and agrees that the design and size of the sanitary sewer system for the subdivision lands and associated development blocks shall conform to the Airport Employment Growth District (AEGD) design guidelines and requirements and meet the minimum 375 mm diameter sewer requirements, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

34. That, **prior to servicing**, the owner shall submit a sanitary flow monitoring plan to monitor the sanitary discharge rates for the site to ensure flows are within the allocated flows as per the Airport Employment Growth District (AEGD) Wastewater Capacity Allocation Policy and in accordance with the AEGD Water and Wastewater Master Servicing Strategy. The monitoring plan shall occur for a period of not less than 2 years after occupancy, and a provision in the cost schedule shall be provided accordingly. In the event that a problem arises, the owner further agrees to take the necessary remedial actions as per the monitoring report at their cost, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
35. That, **prior to servicing**, the owner shall submit a typical road cross section design that will include a roadside ditch on both sides of the pavement to accommodate appropriate LID's to achieve water quality and water balance targets per the Airport Employment Growth District (AEGD) Sub-watershed Master Plan, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
36. That, **prior to servicing**, the owner be required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Gamer Road East, entirely at the owner's expense, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
37. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.5 m black vinyl coated heavy-duty chain-link fence adjacent to Blocks 9 and 10 to ensure that private and public lands are properly separated, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
38. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.8 metre sidewalk on the west side of Street 'A', within the subject lands, and a 3.0 metre multi-use path on the east side of Street 'A', in accordance with the Airport Employment Growth District (AEGD) Transportation Master Plan (TMP) and the City of Hamilton's Complete Street Design, at the owner's expense, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
39. That, **prior to servicing**, the owner shall submit a geotechnical report prepared by a qualified professional engineer including the provision for LID standards in accordance with City standards to the satisfaction of the Director of Growth Management and Chief Development Engineer.
40. That, **prior to servicing**, the owner agrees to include in the design and engineering cost schedules provisions for any temporary works including, but not limited to, traffic improvement works, pavement widening, sidewalk, traffic

signals, including removals associated with the future urbanization, along Garner Road East, at 100% the owner's cost, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

41. That, **prior to servicing**, the owner agrees to take responsibility to maintain, develop and implement a compliance and performance monitoring plan for all LID systems proposed within the Street 'A' right-of-way limits, for a minimum of 5 years from the time of installation of surface asphalt and shall provide a \$100,000.00 security for its operation and maintenance, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
42. That, **prior to servicing**, the owner shall indicate all driveway locations on the engineering drawings for all lots, and further, that the driveways be established outside of the daylight triangles, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
43. That, **prior to servicing**, the owner shall provide a monitoring and mitigation plan in case groundwater/private well impacts arise from construction activities. This contingency plan would include identification and monitoring of potential impacts, triggers, timelines for investigation, City notification protocol, and mitigation plans in case impacts arise, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
44. That, **prior to servicing**, the owner shall demonstrate that they have obtained all necessary approvals, including the Ministry of Transportation (MTO) permit, to install a sanitary sewer under Highway No. 6, to the satisfaction of the Director of Growth Management and Chief Development Engineer.
45. That, **prior to servicing**, the owner agrees to include in the engineering design and cost estimate schedules permanent pavement marking and signage plans for the proposed street in the subdivision including, stop signs, stop bars, pedestrian crossings, etc. upon placement of surface course asphalt, entirely at the owner's costs, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

Transportation Planning:

46. That, **prior to preliminary grading and/or servicing**, the owner shall submit and receive approval of an updated Transportation Assessment, to the satisfaction of the Manager of Transportation Planning. The recommendations of the final approved Transportation Assessment shall include:
 - i. The intersection of Street 'A' / Woodmount Avenue and Garner Road East shall be signalized with interim traffic control prior to the implementation of capital works improvements along Garner Road East;

- ii. A detailed interim traffic signal design and ultimate traffic signal design is to be prepared and submitted by a qualified transportation consultant;
- iii. A centre left-turn lane along Garner Road East will be required to facilitate eastbound and westbound left-turning vehicles at the intersection. Additional interim improvements prior to the implementation of future capital works improvements along Garner Road East may be required such as not but not limited to an exclusive eastbound right-turn lane;
- iv. A pavement marking, and signage design shall be prepared and submitted by a qualified transportation consultant illustrating interim conditions along Garner Road East adjacent to the subject lands; and,
- v. All costs associated with the works, including but not limited to the design, construction and the removal of interim works required, will be at the expense of the Owner;

all to the satisfaction of the Manager of Transportation Planning and the Manager of Transportation Operation and Maintenance.

- 47. That, **prior to registration**, the owner shall submit and receive approval of a pavement marking and signage plan for the overall subdivision, to the satisfaction and approval of the Manager of Transportation Planning.
- 48. That, **prior to registration**, the intersection of Street 'A' and Garner Road East shall have a 12.19 metre x 12.19 metre daylighting triangle dedicated to the municipal right-of-way on the eastern limits of the intersection, as per the Council Approved Urban Official Plan: Chapter C - City wide Systems and Designation 4.5 Road Network Functional Classification; Daylighting Triangles 4.5.7, to the satisfaction of the Manager of Transportation Planning.

Note: The 12.19 metre x 12.19 metre daylighting triangle at the western limits of the intersection of Street 'A' and Garner Road East is required to be a condition of development for the adjacent property located at 224 Garner Road East, in accordance with Section 4.5.6 of the Urban Hamilton Official Plan.

- 49. That, **prior to registration of the final plan of subdivision**, the owner shall dedicate Street 'A' to the City of Hamilton as a public highway under the owner's Certificate on the final plan of subdivision, all to the satisfaction of the Manager of Transportation Planning and Director of Growth Management and Chief Development Engineer.

Note: The ultimate right-of-way width of Street 'A' shall be 30.0 metres, varying to a portion of 26.0 metres along the western boundary of the subject lands. The remaining 4.0 metres of right-of-way may be dedicated as part of future development applications on the adjacent rural residential land to the west (140 Garner Road East), subject to the approval of prerequisite planning applications.

50. That, **prior to servicing**, the owner shall implement the recommendations of the final approved Transportation Assessment, including but not limited to the recommendations described in Condition No. 47.

Planning:

51. That, **prior to preliminary grading and/or servicing**, the owner shall submit and receive approval of an addendum to the Energy and Environmental Assessment Report, to the satisfaction of the Director of Planning and Chief Planner.
52. That, **prior to registration**, the owner agrees to include the following warning clauses in all purchase and sale and / or lease agreements, and registered on title, in accordance with the Noise Study titled "140 Garner Road Development" prepared by Stantec Consulting Ltd. dated March 21, 2018, to the satisfaction of the Director of Planning and Chief Planner:

"The Purchaser(s) is / are hereby advised that they shall submit a Noise Feasibility Study / Noise Brief that outlines the minimum noise mitigation measures that need to be implemented for the development of the Property. The above noted Noise Feasibility Study / Noise Brief shall be prepared by a qualified Professional Engineer and shall be submitted and completed to the satisfaction of the Director of Planning and Chief Planner of the City of Hamilton. Should a peer review for the above noted Noise Feasibility Study / Noise Brief be warranted, all associated costs shall be borne by the Purchaser(s) and shall also be submitted and completed to the satisfaction of the Director of Planning and Chief Planner."

53. That, **prior to registration of the final plan of subdivision**, the owner shall dedicate Blocks 3, 4, 5, 7 and 8 to the City of Hamilton as open space under the owner's Certificate on the final plan of subdivision, all to the satisfaction of the Director of Planning and Chief Planner.
54. That, **prior to registration**, the owner shall submit the necessary transfer deeds to the City's Legal Department to grant a conservation easement over Block 18, to the satisfaction of the Director of Planning and Chief Planner.

Natural Heritage:

55. That, **prior to preliminary grading and/or servicing**, the owner shall stake and survey the boundaries of the Significant Woodland and unevaluated wetland with the appropriate agencies, to the satisfaction of the Director of Heritage and Urban Design.
56. That, **prior to preliminary grading and/or servicing**, the owner shall complete a vegetation survey to determine the presence/absence of locally uncommon /

rare species, to the satisfaction of the Director of Heritage and Urban Design. This survey will be limited to those areas where vegetation communities are proposed to be removed or replicated.

If a locally uncommon or rare species is observed and is proposed to be removed, the owner shall prepare and implement a Transplant Plan, to the satisfaction of the Director of Heritage and Urban Design. The Transplant Plan shall include:

- i. Methodology;
- ii. Timing of re-location;
- iii. GPS co-ordinates and mapping of individuals within the subject lands;
- iv. GPS co-ordinates and mapping of "donor areas"; and,
- v. Photographic records of both the subject sites and "donor" sites.

Where transplant is not deemed feasible, consideration of alternative methods of propagation (e.g., seed collection, cuttings) or sourcing of plant material from a supplier providing locally and ethically sourced seeds/specimens, where available, will be documented in the plan. A written letter from a qualified botanist confirming the completion of the transplant work outlined in the approved Transplant Plan must be submitted, all to the satisfaction to the Direction of Heritage and Urban Design.

57. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a grading plan that demonstrates that grading within the vegetation protection zone (VPZ) is not required to accommodate adjacent development, to the satisfaction of the Director of Heritage and Urban Design. Any grade changes must be accommodated outside of the VPZ.
58. That, **prior to preliminary grading and/or servicing**, the owner shall develop and implement an Invasive Species Management Plan which will include a Letter of Credit and monitoring plan for no less than five years post construction, to the satisfaction of the Director of Heritage and Urban Design.
59. That, **prior to preliminary grading and/or servicing**, the owner shall undertake baseline monitoring of the existing wetland, to the satisfaction of the Director of Heritage and Urban Design and Hamilton Conservation Authority. This monitoring will provide the basis for the long-term monitoring program. A Terms of Reference will be prepared by the owner to the satisfaction of the Director of Heritage and Urban Design and the Hamilton Conservation Authority prior to the start of any monitoring activities.
60. That, **prior to preliminary grading and/or servicing**, the owner shall prepare and implement a Wetland Compensation Design Brief, to the satisfaction of the Director of Heritage and Urban Design:

- i. A wetland recreation ratio of 1.6:1 (minimum) is to be achieved in Blocks 4, 5 and 10;
 - ii. A minimum 15.0 metre vegetation protection zone will be provided to all retained and re-created wetlands;
 - iii. The wetland design will provide for topographic variation to provide a diversity of wetland types to increase the biodiversity of the wetland, including:
 - several ponds of varying depths with varying hydroperiods, with at least one permanent pond that is designed to target water depths of greater than 1.0 metres throughout the summer and up to 1.5 metres in the winter to provide overwintering habitat;
 - a higher aerial proportion of shallow marsh habitat;
 - thicket swamp and deciduous swamp; and,
 - meadow marsh; and,
 - iv. The wetland design will incorporate wildlife habitat elements including, logs and woody debris, and brush piles.
61. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a cost estimate for the wetland creation and post securities in the amount of 100% of the cost estimate, to the satisfaction of the Director of Planning and Chief Planner.
62. That, **prior to preliminary grading and/or servicing**, the owner shall provide correspondence from the MECP to demonstrate to the satisfaction of the City of Hamilton that matters pertaining to the removal of habitat for threatened and endangered species, namely for Species at Risk bats, has been addressed in accordance with the *Species Conservation Act*, to the satisfaction of the Director Heritage and Urban Design.
63. That, **prior to preliminary grading and/or servicing**, the owner shall prepare and implement a revised Tree Protection Plan prepared by a tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010), to the satisfaction of the Director of Heritage and Urban Design. Removal of trees is not to occur until this condition has been satisfied.
- i. The owner shall be aware of the *Migratory Birds Convention Act, 1994*, and *Endangered Species Act, 2007*, (or equivalent) and agrees that the removal of any vegetation is to occur during October 1 to March 30 by placing notations on the Tree Protection Plan relating to birds and bats:
 - Birds: In the event that removals are proposed outside of the restricted window, the owner shall have a qualified biologist conduct a nest search of the vegetated area prior to any vegetation removal. City of Hamilton Natural Heritage Planning staff will be

- made aware of the timing of the nest search and will attend if available. If an active nest(s) is found, the tree will not be removed until the nest is no longer active. If an active nest(s) is not found, the tree(s) should be removed within 72 hours of the nest survey.
- Bats: In the event that the tree removal is proposed during the restricted bat roosting period, the owner shall consult with the Ministry of Environment, Conservation, and Parks to determine the appropriate approach for tree(s) that have been identified as potential bat habitat. Trees with bat habitat potential are to be determined following Ministry of Environment, Conservation, and Parks recommended survey protocols.
- ii. The owner shall provide a Verification of Tree Protection Letter prepared by a recognized tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) is to be provided. This is to confirm that all tree protection measures have been installed in accordance with the Tree Protection Plan; and,
 - iii. The owner shall provide a phasing plan for the removal of trees.
64. That, **prior to preliminary grading and/or servicing**, the owner shall complete a Butternut Health Assessment and DNA Hybridity Assessment, to the satisfaction of Director of Heritage and Urban Design, for any Butternut within 30.0 metres of site alteration activities. This assessment will include a written letter outlining the methodology and the findings of the survey.
- i. If this assessment finds true Butternut species within the Subject Lands, the owner shall follow the *Endangered Species Act, 2007* (or equivalent) and shall provide written correspondence (i.e., e-mail, written letter) to demonstrate compliance to the satisfaction of the Director of Heritage and Urban Design.
65. That, **prior to preliminary grading and/or servicing**, and removal of the existing wetland, the owner shall prepare and implement a Fish/Wildlife Re-location Plan, to the satisfaction of the Director of Heritage and Urban Design. This Plan is to be prepared by an ecologist.
66. That, **prior to preliminary grading and/or servicing**, as it relates to the wetland removal, the owner is to be aware of *Fish and Wildlife Conservation Act, 1997* and agrees that a wildlife salvage permit application, prepared by a qualified biologist, shall be prepared, and submitted to the Ministry of Natural Resources (MNR) for approval. A copy of the correspondence with MNR and approved Permit will be submitted to the City for their records, to the satisfaction of the Director of Planning and Chief Planner.
67. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Vegetation Protection Zone Planting Plan prepared by a certified landscape architect in consultation with an ecologist and will identify the locations

and species to be planted, to the satisfaction of the Director of Heritage and Urban Design. Within the Vegetation Protection Zone Planting Plan, the following is to be undertaken:

- i. All plantings within the Vegetation Protection Zone shall use only non-invasive species native to Hamilton; and,
 - ii. Plants supporting the life cycle needs of the Monarch butterfly are to be incorporated into the planting plan.
68. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a Wildlife Crossing Design where roads cross linkages or wildlife corridors, to the satisfaction of the Director of Heritage and Urban Design.
69. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Landscape Plan showing the placement of compensation for those trees that are 10 cm DBH or greater that are proposed to be removed in accordance with the Tree Protection Plan, to the satisfaction of the Director of Heritage and Urban Design. The trees required for compensation are to meet the City's minimum standards (50 mm caliper for deciduous trees and 1.5 metre high for coniferous trees) as set out in the Council adopted Tree Protection Guidelines (revised October 2010). If trees cannot be accommodated on site, cash-in-lieu, following the City's User Fee, will be required.
70. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Landscape Plan for the creation of a native deciduous woodland in Open Space Blocks 3, 7 and 8, to the satisfaction of the Director of Heritage and Urban Design. The Landscape Plan will only include native trees, shrubs and a native plant seed mix comprised of species found within the Hamilton area and will be prepared by a Landscape Architect in consultation with an ecologist. The Landscape plan will ensure tree size and density meets the criteria to be considered a woodland in accordance with the definition of woodland in the *Forestry Act*, 1990, and includes tree species that support maternity roost habitat for bats (e.g., Sugar Maple, Oak and Shagbark Hickory).
71. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Landscape Plan for the design and planting of the Linkage in Block 18, to the satisfaction of the Director of Heritage and Urban Design. The Landscape Plan will only include native trees, shrubs and a native plant seed mix comprised of species found within the Hamilton area and will be prepared by a Landscape Architect in consultation with an ecologist. The Linkage should incorporate wildlife habitat features, including small depressions (e.g. 20 m², 20-40 cm deep), rock piles, and large woody debris (e.g., logs).
72. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Wildlife Habitat Design Plan, to the satisfaction of the Director of Heritage and Urban Design. This Plan is to be prepared by an ecologist and is to

include the design for artificial bat habitat structures (e.g., rocket boxes, BrandenBark™), numbers of structures to be installed, and locations for artificial bat habitat structures.

73. That, **prior to registration of the final plan of subdivision**, the owner shall have a qualified biologist evaluate the wetland re-creation areas to confirm that the wetland has been implemented according to the Wetland Design prepared as part of the Wetland Compensation Design Brief. The qualified biologist shall provide a letter to confirm the wetland has been constructed and planted per the Wetland Compensation Design Brief, to the satisfaction of the Director of Heritage and Urban Design.
74. That, **prior to registration**, the following conditions shall be included in the subdivision agreement, to the satisfaction of the Director of Planning and Chief Planner:
 - i. The created wetland habitat within Blocks 4, 5 and 10 shall be monitored for a period of seven years post installation (Years 1, 2, 3, 5, and 7). Monitoring will follow an adaptive management protocol. The City may request additional monitoring, up to a maximum of 10 years (i.e., Years 9 and 10), if the approved monitoring plan's metrics are not met. The intent of additional monitoring would be to evaluate the success of further mitigation necessary to establish the form and function of Blocks 4, 5 and 10 in accordance with the monitoring plan. Monitoring reports will be submitted to the City of Hamilton by January 31st of the following year monitoring was completed;
 - ii. To implement the approved Invasive Species Management Plan to the satisfaction of the City; and,
 - iii. Transplanted species will be monitored for a period of two years post transplant and annual monitoring reports will be submitted to the City of Hamilton by January 31st of the following years monitoring was completed.
75. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Stewardship Action Plan, to the satisfaction of the Director of Heritage and Urban Design. This Plan will include but not be limited to, the following:
 - i. fencing;
 - ii. snow storage;
 - iii. Landscape Maintenance Strategy (i.e., mowing, fertilizing);
 - iv. signage; and,
 - v. bird-friendly design.
76. That, **prior to registration of the final plan of subdivision**, the owner shall prepare servicing easement design plan, to the satisfaction of the Director of Growth Management and Chief Development Engineer. The servicing easement shall generally be maintained as native grass or asphalt. Where vehicular access

is required within vegetated portions of the servicing easement for maintenance purposes and where surface reinforcement is necessary, the design shall incorporate turf stone or similar low-impact, permeable surface treatment, as appropriate, filled with sandy-loam soil, and sown with a seed mix partly comprised of suitable native plants that are drought tolerant and low growing. The seed mix shall be reviewed by an ecologist.

Legislative Approvals / Staging of Development:

77. That, **prior to registration**, the owner and agent should work with Legislative Approvals / Staging of Development staff to finalize street naming and municipal addressing for the proposed Blocks, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

Forestry and Horticulture:

78. That, **prior to preliminary grading**, the owner shall submit a revised Tree Management Plan, showing the location of drip lines, edges and existing plantings, the location of all existing trees, including trees within the City owned rights-of-way, and the method to be employed in retaining trees required to be protected; and to implement all approved tree saving measures. The implementation of the Plan shall include a Verification of Tree Protection Letter, prepared by a qualified professional, all to the satisfaction of the Manager of Forestry and Horticulture.

Hamilton Conservation Authority:

79. That, **prior to preliminary grading and/or servicing** on any portion of the site that is within the regulatory authority of the Hamilton Conservation Authority, the owner shall submit a complete permit application and receive approval of an HCA permit pursuant to Ontario Regulation 41/24 (Prohibited Activities, Exemptions, and Permits), to the satisfaction of the Hamilton Conservation Authority.
80. That, **prior to preliminary grading of the subdivision**, the owner prepares and implements an erosion and sediment control plan for the property, to the satisfaction of the Hamilton Conservation Authority.
81. That, **prior to preliminary grading of the subdivision**, the owner prepares a detailed grading and servicing plan for the property, to the satisfaction of the Hamilton Conservation Authority.
82. That, **prior to servicing**, the owner prepares a final Stormwater Management Report for the property, to the satisfaction of the Hamilton Conservation Authority.

83. That, **prior to servicing**, the owner prepares a final Feature Based Water Balance Report for the property, to the satisfaction of the Hamilton Conservation Authority.
84. That, **prior to servicing**, the owner prepares a final Wetland Phasing Plan for the property, to the satisfaction of the Hamilton Conservation Authority.

Ministry of Transportation

85. That, **prior to preliminary grading and/or servicing**, the owner shall obtain a Building / Land Use Permit, to the satisfaction of the Ministry of Transportation of Ontario. Note: The owner needs to secure Ministry of Transportation approval of materials including but not limited to drainage plans, traffic impact studies, detailed grading, servicing and internal road construction plans, lighting plans, and legal agreements (if highway improvements are required).

Utilities and Telecommunications:

86. That **prior to registration**, the owner shall agree, in words satisfactory to Hydro One Networks Inc., to grant to Hydro One Networks Inc., any easements that may be required for electrical services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Hydro One Networks Inc. facilities or easements, the owner shall be responsible for the relocation of such facilities or easements.
87. That, **prior to preliminary grading and/or servicing**, the owner shall satisfy the following, to the satisfaction of Hydro One Networks Inc. ("HONI"):
 - i. Any proposed secondary land use on the transmission corridor is processed through the Provincial Secondary Land Use Program (PSLUP). The developer must contact Joan Zhao, Senior Real Estate Coordinator at 905-946-6230 to discuss all aspects of the subdivision design, ensure all of HONI's technical requirements are met to its satisfaction, and acquire the applicable agreements.
 - ii. Prior to HONI providing its final approval, the developer must make arrangements satisfactory to HONI for lot grading and drainage. Digital PDF copies of the lot grading and drainage plans (true scale), showing existing and proposed final grades, must be submitted to HONI for review and approval. The drawings must identify the transmission corridor, location of towers within the corridor and any proposed uses within the transmission corridor. Drainage must be controlled and directed away from the transmission corridor.
 - iii. Any development in conjunction with the subdivision must not block vehicular access to any HONI facilities located on the transmission corridor. During construction, there must be no storage of materials or mounding of earth, snow, or other debris on the transmission corridor.

- iv. At the developer's expense, temporary fencing must be placed along the transmission corridor prior to construction, and permanent fencing must be erected along the common property line after construction is completed.
 - v. The costs of any relocations or revisions to HONI facilities which are necessary to accommodate this subdivision will be borne by the developer. The developer will be responsible for restoration of any damage to the transmission corridor or HONI facilities thereon resulting from construction of the subdivision.
88. That, **prior to registration**, the owner / developer shall provide to Enbridge Gas Inc., operating as Union Gas ("Union"), the necessary easements and / or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Union.
89. That **prior to registration**, the owner provide the Manager of Development Approvals with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider approved by the Canadian Radio and Telecommunication Commission (CRTC) that adequate telecommunication service will be provided to the subdivision including 9-1-1 emergency calling service that identifies, at a minimum, the caller's name and location information.
90. That **prior to registration**, the owner shall agree in the Subdivision Approval Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner / Developer shall be responsible for the relocation of such facilities or easements.
91. That **prior to registration**, the owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the owner shall be responsible for the relocation of any such facilities or easements at their own cost.

Canada Post:

92. That **prior to registration**, the owner shall include on all offers of purchase and sale, a statement that advises the prospective purchaser:
- i. That the home / business mail delivery will be from a designated Centralized Mail Box.
 - ii. That the developers / owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
93. That **prior to registration**, the owner agrees to:

- i. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
 - ii. Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
 - iii. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
 - iv. Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans.
 - v. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
94. Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (Lock Box Assembly) at their own expense (less than 100 units will require a front loading Lock Box Assembly and more than 100 units will require a rear loading Lock Box Assembly which will require a mail room) will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Hamilton International Airport:

95. That the owner shall demonstrate that they comply with the Hamilton Airport Zoning (Height) Regulations established by Transport Canada, which are registered at the local Land Titles Office, and which may be amended from time to time, to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner.

NOTES TO DRAFT PLAN APPROVAL

Legislative Approvals:

1. Pursuant to Section 51 (32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received two months before the draft approval lapses.

Recycling and Waste Disposal:

2. This industrial development is ineligible for municipal waste collection as per the requirements under the Waste Management System By-law No. 20-221.