

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



26-022-OLT Schedule A
26-023-OLT Schedule B

ISSUE DATE: November 14, 2025

CASE NO(S): OLT-24-001189

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	UHOPA-22-014
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton
OLT Case No:	OLT-24-001189
OLT Lead Case No:	OLT-24-001189
OLT Case Name:	RCG Upper James Hamilton Inc. et al. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	ZAC-22-027
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton/Hamilton
OLT Case No:	OLT-24-001190
OLT Lead Case No:	OLT-24-001189

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

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Proposed Plan of Subdivision – Failure of Approval Authority to make a decision
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	25T-202204
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton/Hamilton
OLT Case No:	OLT-24-001191
OLT Lead Case No:	OLT-24-001189

Heard: October 29, 2025, by video hearing

APPEARANCES:

Parties

RCG Upper James Hamilton Inc. & Pure Upper James Street Holdings ULC

City of Hamilton

Counsel

Ira Kagan
Sarah Kagan

Rachel McVean

MEMORANDUM OF ORAL DECISION DELIVERED BY D. CHIPMAN AND G. DRIEDGER ON OCTOBER 29, 2025 AND ORDER OF THE TRIBUNAL

[Link to the Order](#)

INTRODUCTION

[1] The Decision and Order relate to a Settlement Proposal concerning appeals brought pursuant to s. 22(7), s. 34(11) and s. 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”) from the failure of the City of Hamilton (“City”) to render decisions within the prescribed timelines regarding applications for an Official Plan Amendment (“OPA”), Zoning by-law Amendment (“ZBA”) and Draft Plan of Subdivision (“DPS”) (together referred to as the “applications”). The appeals were filed by RCG

Upper James Hamilton Inc. & Pure Upper James Street Holding ULC (“Appellant”) regarding lands municipally known as 2876 Upper James Street in the city (“subject property”).

[2] Prior to the commencement of the Hearing, the Tribunal received correspondence that a settlement had been reached between the Parties. The Parties made a request that the Tribunal review the settlement materials and approve the proposed planning instruments.

[3] In accordance with Rule 12 of the Tribunal’s *Rules of Practice and Procedure*, the Tribunal convened the proceedings as a Hearing on the terms of the settlement.

LEGISLATIVE FRAMEWORK

[4] When considering appeals filed pursuant to sections 22(7), 34(11) and 51(34) of the Act, the Tribunal must have regard to matters of provincial interest as set out in section 2 of the Act. Decisions of the Tribunal affecting planning matters must conform to the Provincial Planning Statement, 2024 (“PPS 2024”), and in this matter, to the Urban Hamilton Official Plan (“UHOP”), and Zoning By-law No. 05-200.

SUBJECT LANDS AND SURROUNDING AREA

[5] The Subject Lands is located near the southern limits of Hamilton’s main urban boundary, directly abutting the Airport and generally north of the Mount Hope community. It is located within an area generally planned for employment uses through the Airport Employment Growth District Secondary Plan. Currently, the surrounding land uses include a mix of airport-related operations, agriculture, low-density residential, commercial, recreation and places of worship.

BACKGROUND OF THE APPLICATION

[6] On January 18, 2022, the Applicants submitted the subject OPA, ZBA and DPS

Applications to permit the subdivision and development of the Subject Site. The Applications were deemed complete on April 5, 2022.

[7] On October 31, 2022, the Applicants filed a resubmission of revised and additional materials accommodating only minor shifts in the block areas on the DPS.

[8] On February 23, 2023, the Applicants filed a further resubmission with minor modifications to the width, area and classification of the blocks along the north and south property lines which contain the re-aligned headwater drainage features which were reduced in size, while the areas for natural heritage compensation and buffer were increased.

[9] On November 20, 2023, the Applicants filed a final plan that eliminated the proposed public road and the dedicated stormwater management block/dry pond. A revised development concept for the industrial block that featured two narrow rectangular buildings were introduced and the areas of wetland compensation and environmental protection were further increased as was the area of the environmental buffer blocks.

[10] On November 14, 2024, an appeal was filed as City Council failed to make a decision on the Applications within the statutory review period.

[11] The Tribunal provides the following statistical comparison of the Original Proposal, and the Revised Plans filed in support of the Settlement Proposal:

[12] Table 1 - Statistical Comparison

Table 1 - Statistical Comparison

Standard	Original Proposal	November 2022 Proposal	February 2023 Proposal	November 2023 Proposal	Settlement Proposal
Proposed Blocks (ha)					
Industrial (& Future Development)	16.570	16.57	15.955	14.339	13.577
Environmental Protection	2.635	2.635	2.635	3.422	3.422

Standard	Original Proposal	November 2022 Proposal	February 2023 Proposal	November 2023 Proposal	Settlement Proposal
Wetland Compensation	0	0	1.596	1.703	2.745
Vegetation Protection Zone (Buffer)	2.13	1.845	0.881	3.203	2.923
Stormwater Management	0.431	0.424	0.425	0	0
Roads (and Reserve)	0.939	1.231	1.213	0.038	0.038
Total Site Area	22.705	22.705	22.705	22.705	22.705
Wetland Compensation Ratio					
Existing to Compensation Area	1:0	1:0	1:0.9	1:1	1:1.5
Development Statistics					
Building Height	12.19 m	12.19 m	12.19 m	12.5 m	12.19 m
Number of Buildings	1	1	1	2	2
Gross Floor Area (m ²)	95,232	95,238	95,238	80,919	76,835
Parking Spaces	527	478	478	260	248
Loading Docks	139	140	140	144	128
Trailer Storage	70	70	70	127	85
Landscaped Area	27%	27%	27%	6%	TBD
Site Coverage	57.47%	57.47%	57.17%	57.26%	33.84%

SUBMISSIONS

[13] Planning evidence and opinion to support the revised OPA, ZBA and DPS was provided by Mr. David Falletta, a land use planner and partner with Bousfields Inc., and a Registered Professional Planner with full membership with the Canadian Institute of Planners and the Ontario Professional Planners Institute. He was qualified by the Tribunal to provide expert land use planning evidence.

[14] Prior to the commencement of the Hearing, the Tribunal received the following documents as Exhibits to the hearing:

Exhibit 1: Affidavit of David Falletta

Exhibit 2: Executed Minutes of Settlement

[15] Mr. Falletta provided a comprehensive contextual and planning rationale in support of the Settlement Proposal. In addition to the key revisions listed in the chart above, he noted there has been a number of improvements recommended for the existing natural wetlands on the Subject Property.

PLANNING EVIDENCE

Section 2 of the Act

[16] The Tribunal heard that the Settlement Proposal has appropriate regard for matters of provincial interest, as they protect in-situ the portion of Three Mile Creek that traverses the northeast corner of the Subject Site, as well as the adjacent woodlot, with the goal to protect ecological systems. Additionally, the Settlement Proposal provides an appropriate rate of compensation area for the existing headwater drainage feature (“HDF”) that is required to be removed to allow for the establishment of a functional industrial development block that is supported by existing transportation, sewage and water services, and waste management systems.

Provincial Planning Statement, 2024

[17] The Tribunal heard that the implementing planning instruments are consistent with the 2024 PPS and will facilitate the development of employment uses at a location where employment growth is planned which promotes economic development and competitiveness (Policy 2.8.1.1); the Subject Property is immediately adjacent to the Hamilton International Airport. The two warehouse buildings proposed will relate to logistics uses associated with the airport (Policies 2.8.2.3); the DPS will ensure Policy 3.6.8 relating to stormwater management, of the 2024 PPS are addressed within the draft approval included conditions.

Urban Hamilton Official Plan (“UHOP”)

[18] The Tribunal heard that the settlement proposal has due regard for the UHOP in the following areas: (Policies B.3.4.4) a further archaeological investigation will be completed and will be subject to a future site plan control application where the efficient use and conservation of energy and water will be addressed. The settlement proposal provides warehouse space in an employment area that is within the urban boundary on a primary corridor that will support the Airport’s position as one of the top cargo hubs in

Canada. (Policy E.2.8.3) Additionally, the settlement proposal addresses the applicable natural heritage policies (Policy C.2.2.8). Road design will respect the transportation policies as a result of proximity to the Airport to avoid any conflicts between the two adjacent land uses (Policy C.4.8).

[19] The stormwater management approach proposed for the Subject Site as part of the settlement proposal conforms to the stormwater management policies in the UHOP. Careful consideration has been given to ensure that water quality and quantity targets can be met while respecting the integrity of the relocated wetland and maintained natural heritage features on the Subject Site.

Airport Employment Growth District Secondary Plan (“AEGD”)

[20] The settlement proposal conforms to the applicable policies of the AEGD Secondary Plan by offering a range of employment and employment-related land uses in the context of an eco-industrial park by balancing the needs of industrial development within the constraints of the existing natural heritage features on the Subject Site. The settlement proposal and implementing planning instruments conform to urban design policies of the AEGD with a reasonable and appropriate level of development intensity considering the natural heritage elements on site. Adequate landscape strips and vegetation protection zones have been accommodated to ensure the industrial development block will be sufficiently buffered from adjacent natural features, the street and nearby sensitive land uses.

City of Hamilton Zoning By-law No. 05-200, as amended

[21] The settlement proposal proposes to rezone the Subject Site to the Airport Prestige Business (M11) and Conservation/Hazard Land (P5) Zones, with holding provisions and special exceptions apply to address the site-specific regulations while ensuring the matters related to servicing and archaeological potential are addressed prior to development proceeding.

Draft Plan Conditions

[22] The Tribunal finds that the proposed DPS, with the amended Draft Plan Conditions required to effectively implement the draft plan, have due regard for the criteria set out in s. 51(24) of the Act.

Participant Statements

[23] The Tribunal heard the concerns expressed have been addressed through the City's review of the transportation materials and Appeal settlement discussions.

[24] In this regard, the conditions of draft plan approval include transportation upgrades including the installation of a new traffic control signal at the intersection of Upper James Street and the Subject Site's proposed driveway access, which can also be utilized by St. Paul's Anglican Church, which is located immediately opposite Upper James Street.

ANALYSIS AND FINDINGS

[25] The Tribunal finds the uncontroverted evidence provided by Mr. Falletta that the OPA and ZBA are consistent with the Provincial Planning Statement, 2024, conforms to the Urban Hamilton Official Plan and is in keeping with applicable policies and guidelines of the Province of Ontario and the City.

[26] Further, the Tribunal is satisfied that the Settlement reached by the Parties is fair and reasonable and that the resulting OPA, ZBA and DPS represents good planning in the public interest. The Tribunal commends the Parties in working collaboratively with Tribunal-led mediation in order to reach a settlement in these proceedings.

ORDER

[27] **THE TRIBUNAL ORDERS THAT** the appeal is allowed in part and the Official Plan for the City of Hamilton is amended as set out in **Schedule A** to this Order is hereby approved. The Tribunal authorizes the municipal clerk of the City of Hamilton to format and assign a number to this Official Plan Amendment for record keeping purposes.

[28] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, in part and the City of Hamilton Zoning By-law No. 05-200 is hereby amended as set out in **Schedule B** to this Order is hereby approved. The Tribunal authorizes the municipal clerk of the City of Hamilton to format and assign a number to this By-law for record keeping purposes.

[29] **THE TRIBUNAL ORDERS THAT** the appeal is allowed, and the draft plan shown on the plan prepared by Bousfields Inc. dated July 29, 2025, comprising of Part of Lot 5, Concession 4 (Geographic Township of Glanford), City of Hamilton set out in Schedule **C**, is hereby approved subject to the conditions of draft plan approval which are set out in **Schedule D** to this Order.

[30] **THE TRIBUNAL ORDERS THAT** pursuant to subsection 51(56.1) of the Planning Act ("Act"), that the City of Hamilton shall have the authority to clear the conditions of approval and give final approval of the plan of subdivision for the purposes of subsection 51(58) of the Act, subject to subsection 51(56.2) of the Act. Furthermore, the Tribunal orders that nothing in this order shall prevent the City from changing the conditions of approval as prescribed in section 51(45) of the Act.

[31] In the event that there are any difficulties implementing any of the conditions of draft plan approval, the Tribunal may be spoken to.

“D. Chipman”

D.CHIPMAN
MEMBER

“G. Driedger”

G. DRIEDGER
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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.

SCHEDULE A

26-022-OLT

**Schedule "1"
OLT-24-001189**

**Urban Hamilton Official Plan
Amendment No. 248**

The following text, together with:

Appendix "A"	Volume 1: Schedule B – Natural Heritage System
Appendix "B"	Volume 1: Schedule B-2 – Detailed Natural Heritage Features Significant Woodlands
Appendix "C"	Volume 1: Schedule B-4 – Detailed Natural Heritage Features Wetlands
Appendix "D"	Volume 1: Schedule B-8 – Detailed Natural Heritage Features Key Hydrologic Feature Streams
Appendix "E"	Volume 2: Map B.8-1 – Airport Employment Growth District Secondary Plan – Land Use Plan
Appendix "F"	Volume 2: Map B.8-2 – Airport Employment Growth District Secondary Plan – Natural Heritage System
Appendix "G"	Volume 2: Map B.8-4 – Airport Employment Growth District Secondary Plan – Phasing Plan

attached hereto, constitutes Official Plan Amendment No.248 to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose of this Amendment is to:

- amend the Urban Hamilton Official Plan to identify Core Areas (Significant Woodlands, Wetlands, and Streams) within the Subject Lands; and,
- amend the Airport Employment Growth District Secondary Plan by redesignating the subject lands from Airport Reserve to Airport Prestige Business and Natural Open Space; modifying the identification of Support/Indirect Fish Habitat from the subject lands, modifying the boundary of the Seasonal Habitat on the subject lands, identifying a portion of the subject lands as Core Areas, and identifying the subject lands as Servicing Phase 1.

The effect of this Amendment is to permit the development of two warehouse buildings.

2.0 Location:

The lands affected by this Amendment are known municipally as 2876 Upper James Street, in the former Township of Glanbrook.

3.0 Basis:

The basis for permitting this Amendment is:

- The proposed development supports the policies of the Urban Hamilton Official Plan and the Airport Employment Growth District Secondary Plan, as it contributes to a diverse range of employment opportunities, supports the movement of goods, contributes to the planned urban structure, and protects natural heritage features; and,
- The Amendment is consistent with the Provincial Planning Statement, 2024.

4.0 Actual Changes:**4.1 Volume 1 – Parent Plan*****Schedules and Appendices*****4.1.1 Schedule**

- a. That Volume 1: Schedule B – Natural Heritage System be amended, as shown on Appendix "A", attached to this Amendment.
- b. That Volume 1: Schedule B-2 – Detailed Natural Heritage Features Woodlands be amended, as shown on Appendix "B", attached to this Amendment.
- c. That Volume 1: Schedule B-4 – Detailed Natural Heritage Features Wetlands be amended, as shown on Appendix "C", attached to this Amendment.
- d. That Volume 1: Schedule B-8 – Detailed Natural Heritage Features Key Hydrologic Features Streams be amended, as shown on Appendix "D", attached to this Amendment.

4.2 Volume 2 – Secondary Plans***Maps*****4.2.1 Map**

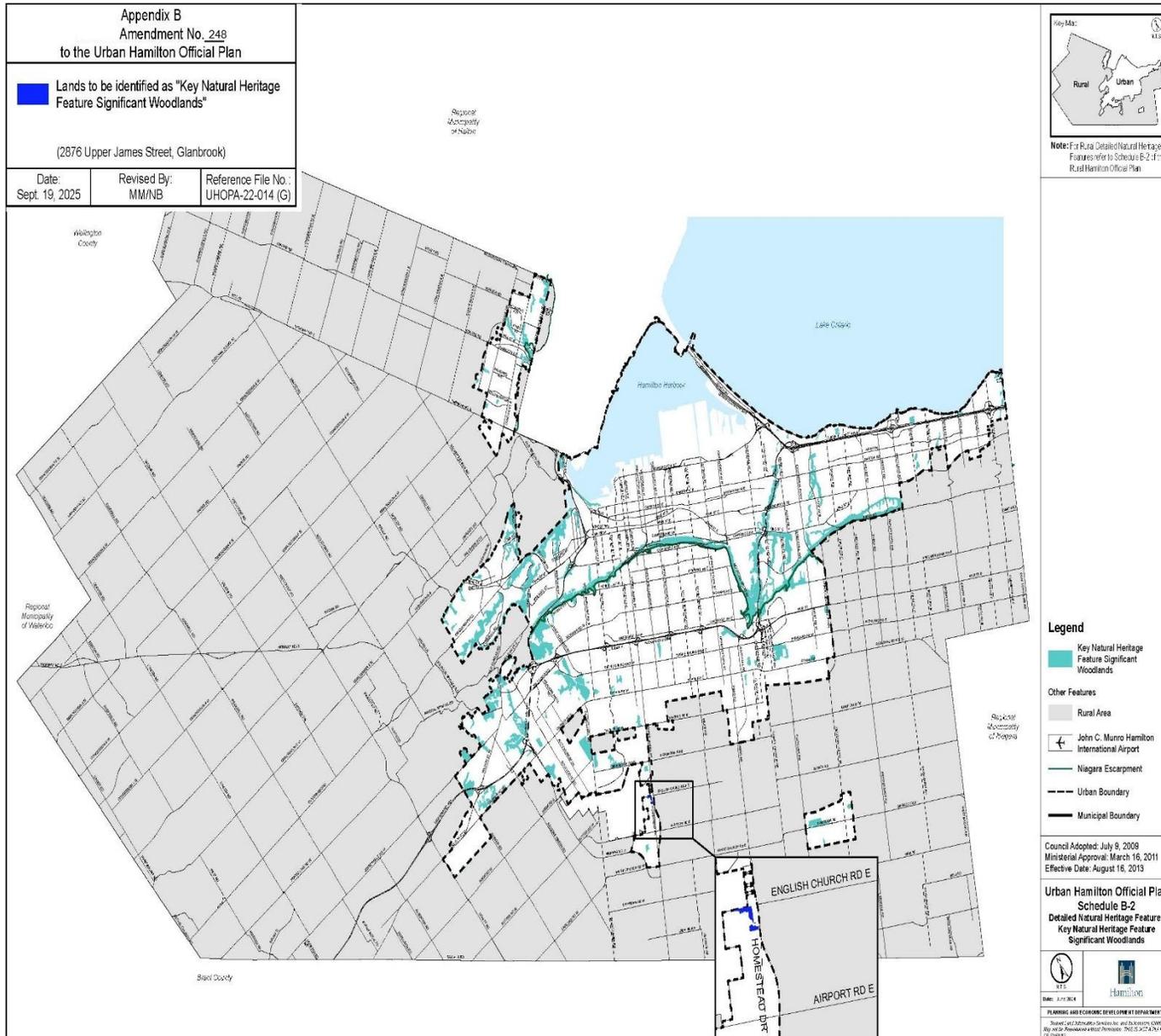
- a. That Volume 2: Map B.8-1 – Airport Employment Growth District Secondary Plan – Land Use Plan be amended, as shown on Appendix “E”, attached to this Amendment.
- b. That Volume 2: Map B.8-2 – Airport Employment Growth District Secondary Plan – Natural Heritage System be amended, as shown on Appendix “F”, attached to this Amendment.
- c. That Volume 2: Map B.8-4 – Airport Employment Growth District Secondary Plan – Phasing Plan be amended, as shown on Appendix “G”, attached to this Amendment.

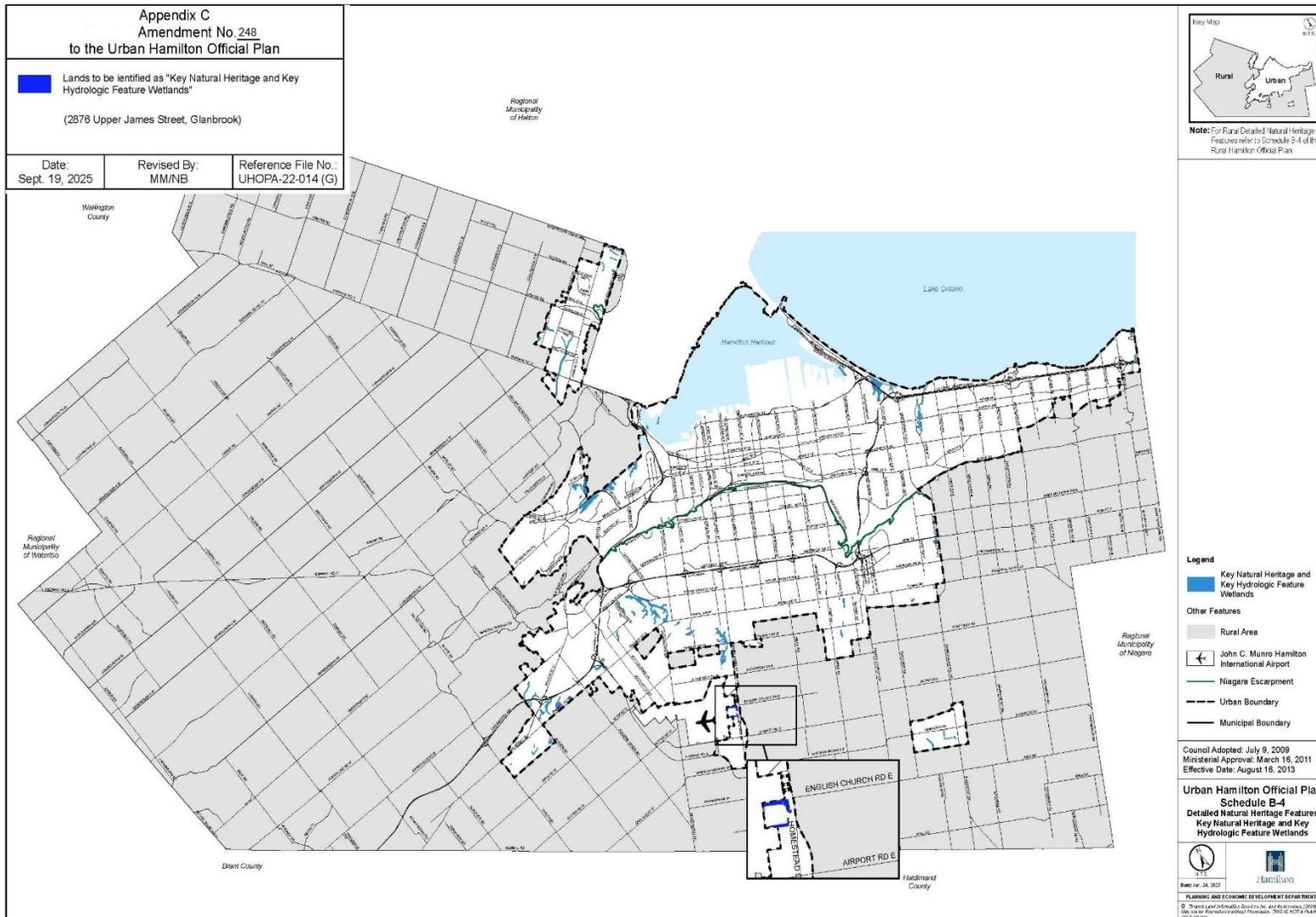
5.0 Implementation:

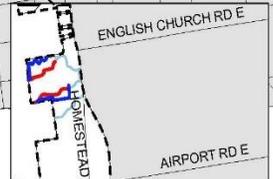
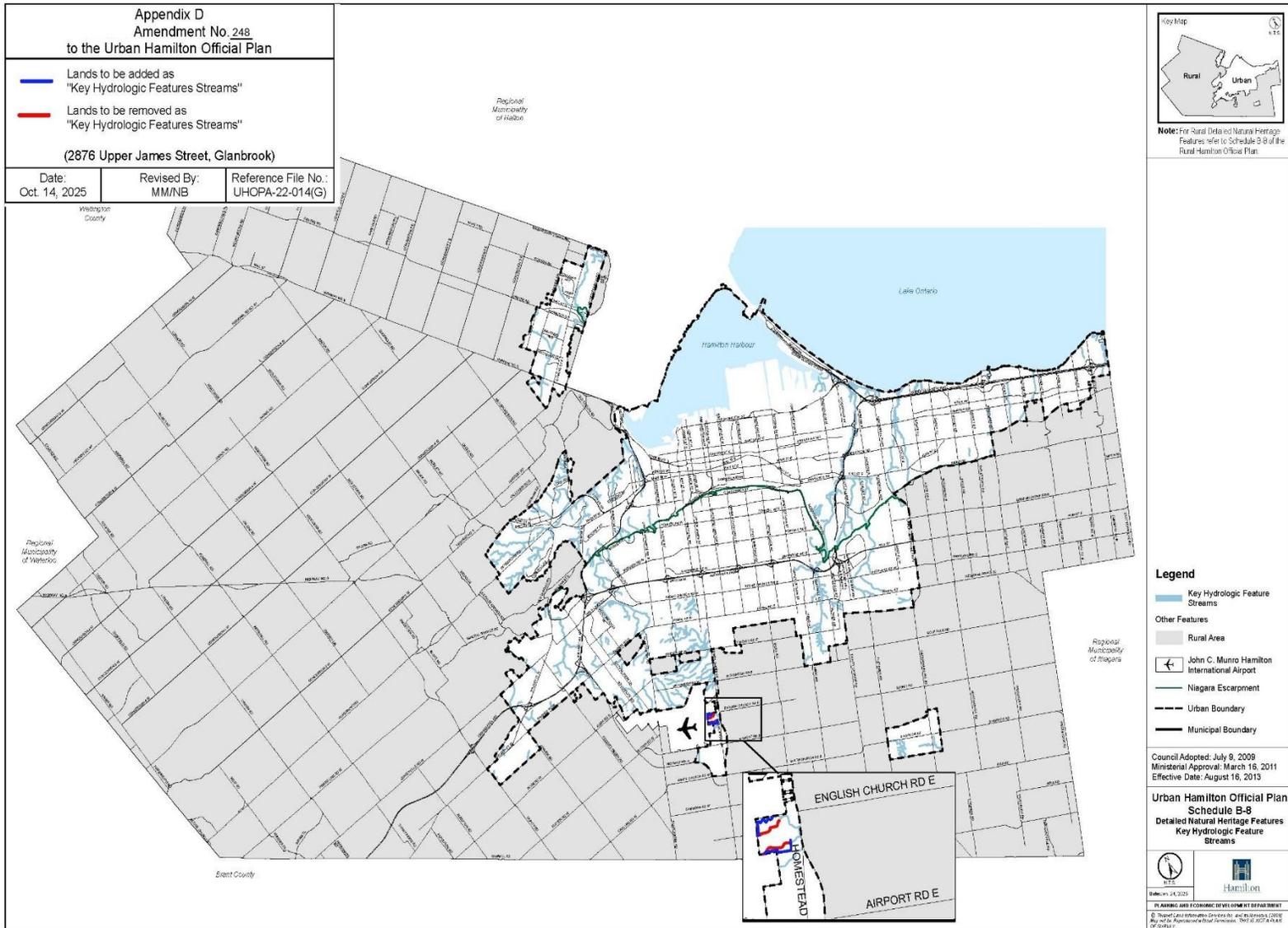
An implementing Zoning By-Law Amendment, Draft Plan of Subdivision, and Site Plan will give effect to the intended uses on the subject lands.

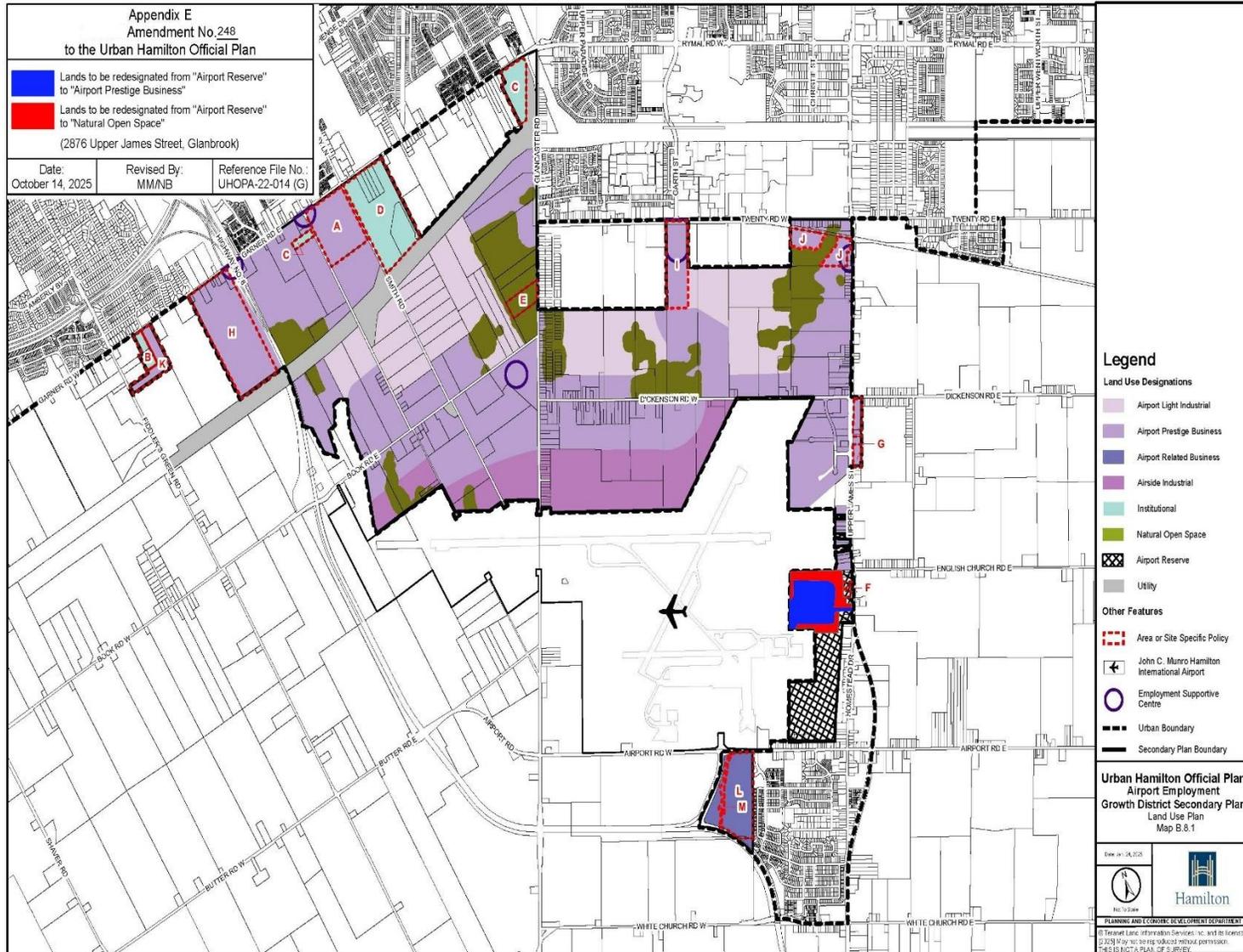
This Official Plan Amendment is Schedule “1” to By-law No. **26-022-OLT**, pursuant to the Decision / Order of the Ontario Land Tribunal issued in Case No. OLT-24-001189 on the **14th** day of **November, 2025**.

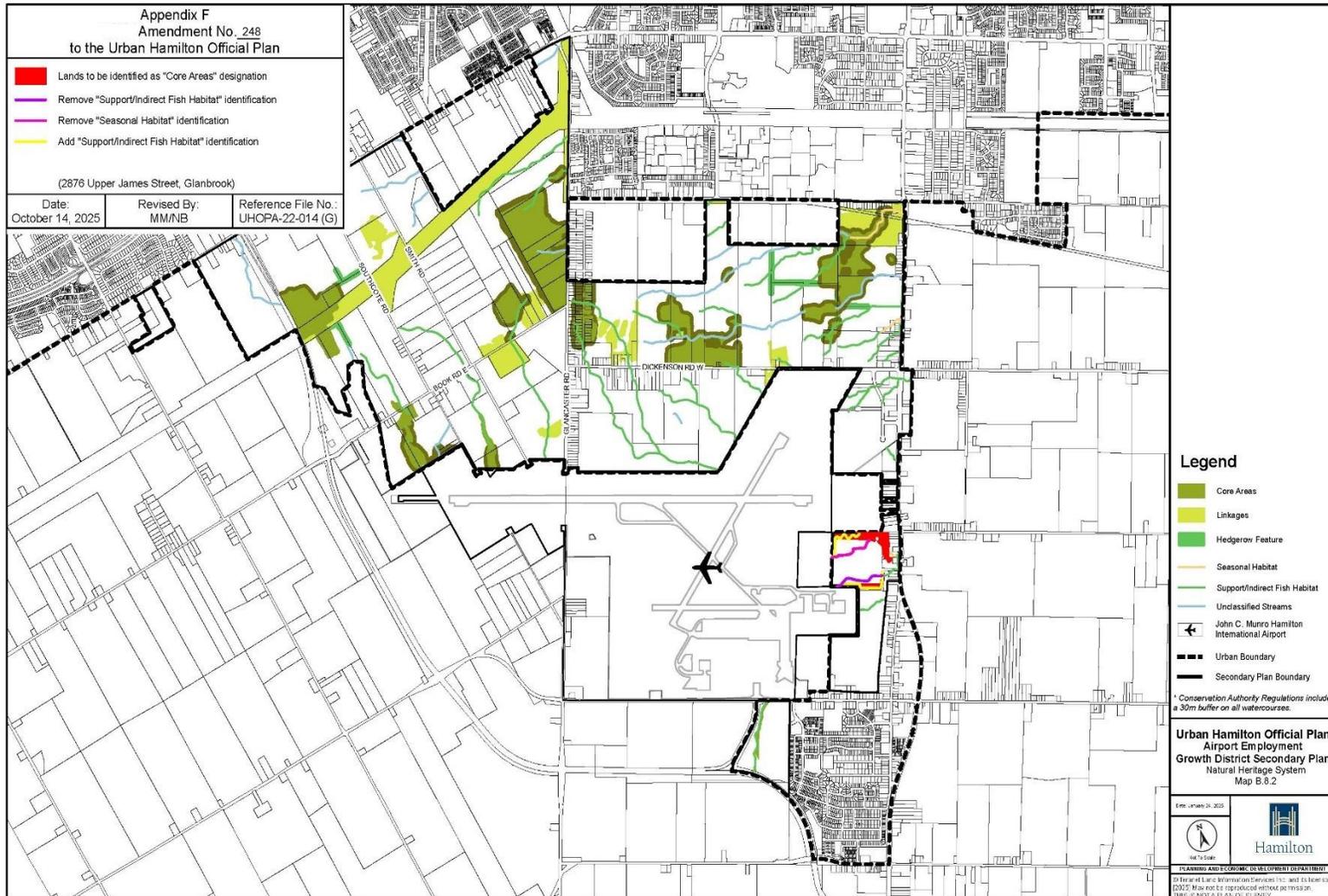


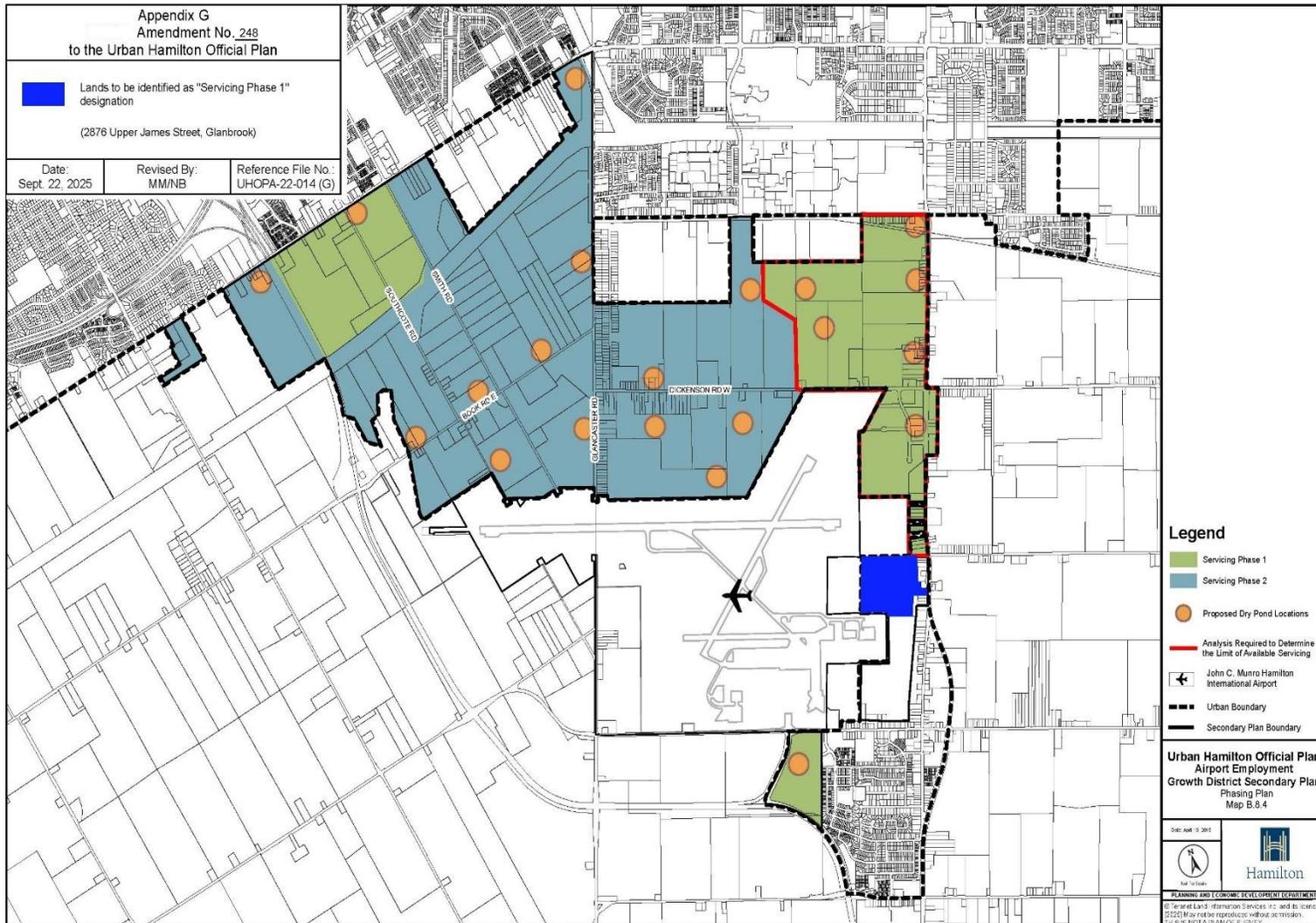












SCHEDULE B

Authority: Item,
CM:
Ward: 12

Bill No.

CITY OF HAMILTON

BY-LAW NO. 26-023 -OLT

To Amend Zoning By-law No. 05-200 with respect to Lands located at 2876 Upper James Street, Hamilton

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;

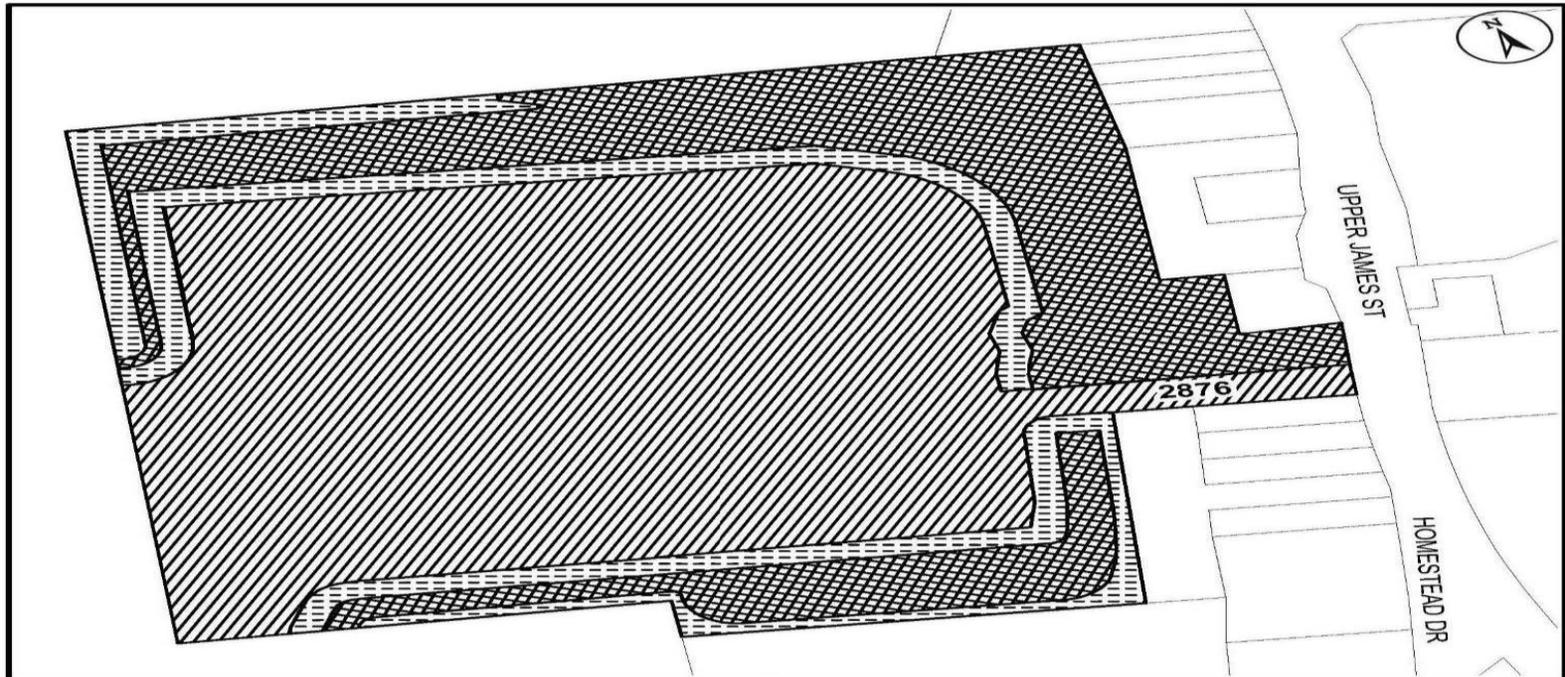
WHEREAS the Ontario Land Tribunal, in its Decision/Order for Case No. OLT-24-001189 dated the 14th day of November 2025 approved the amendment to Zoning By-law No. 05-200, as herein provided;

AND WHEREAS this By-law conforms to the Urban Hamilton Official Plan upon adoption of Official Plan Amendment No. 248 ;

NOW THEREFORE the Ontario Land Tribunal amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zone Map Nos. 1670, 1671, 1710, and 1711 are amended by changing the zoning from the Airport Reserve (M9, H37) Zone to the Airport Prestige Business (M11, 949, H37, H209) Zone, Conservation/Hazard Land (P5, 950, H37, H209) Zone, and Conservation/Hazard Land (P5, H37, H209) Zone, 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:
 - "949. Within the lands zoned Airport Prestige Business (M11, 949, H37, H209) Zone, identified on Map Nos. 1670, 1671, 1710, and 1711 of Schedule "A" – Zone Maps and described as 2876 Upper James Street, the following special provisions shall apply:
 - a) Notwithstanding Section 4.23(d), the following regulation shall apply:

- ii) That the owner submit and receive approval of a Stage 4 Archaeological Assessment for sites AhGx-851 and AhGx-852, if recommended by the Stage 3 archaeological assessments for the subject sites or the Ministry of Citizenship and Multiculturalism, to the satisfaction of the Director of Planning and Chief Planner and the Ministry of Citizenship and Multiculturalism;
 - iii) That the owner commit to Stage 4 archaeological mitigation for the Euro-Canadian portion of the Terryberry Sawmill site (AgGx-1071), as identified in the Stage 3 Archaeological Assessment P1037-0092-2021, to the satisfaction and of the Director of Planning and Chief Planner and the Ministry of Citizenship and Multiculturalism; and,
 - iv) That the owner submit letters from the Ministry of Citizenship and Multiculturalism indicating their satisfaction that the fieldwork and reporting for any necessary archaeological assessments are consistent with the Ministry's 2011 *Standards and Guidelines for Consultant Archaeologists* and the terms and conditions for archaeological licences and that the Archaeological Assessments have been entered into the Ontario Public Register of Archaeological Assessments, to the satisfaction of the Director of Planning and Chief Planner and the Ministry of Citizenship and Multiculturalism.”
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 Airport Prestige Business (M11, 949, H37, H209) Zone, Conservation/Hazard Land (P5, 950, H37, H209) Zone, and Conservation/Hazard Land (P5, H37, H209) Zone subject to the special requirements referred to in Section Nos. 2 and 3 of this By-law.
 6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.
 7. That this By-law No. 2 6-023 -OLT shall come into force and be deemed to come into force in accordance with Sub-section 34(26) of the *Planning Act* and as described in Decision/Order No. 24-001189 , dated the 14th day of November, 2025.



This is Schedule "A" to By-law No. 26-023-OLT
 Passed the 14th day of November, 2025

 Mayor

 Clerk

Schedule "A"
Map forming Part of
By-law No. 26-023-OLT
to Amend By-law No. 05-200
Maps 1670, 1671, 1710 & 1711

- Subject Property**
 2876 Upper James Street
-  Change in Zoning from Airport Reserve (M9, H37) Zone to the Airport Prestige Business (M11, 949, H37, H209) Zone
 -  Change in Zoning from Airport Reserve (M9, H37) Zone to Conservation/Hazard Land (P5, H37, H209) Zone
 -  Change in Zoning from Airport Reserve (M9, H37) Zone to Conservation/Hazard Land (P5, 950, H37, H209) Zone

Scale:
 N.T.S.
 Date:
 September 22, 2025

File Name/Number:
 ZAC-22-027 & UHOPA-22-014
 & 26-023-001
 Planner/Technician:
 MM/AL



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SCHEDULE C

Special Conditions for Draft Plan of Subdivision Approval for 25T-202205

That this approval apply to the Draft Plan of Subdivision, prepared by Bousfields Inc., dated July 29, 2025, consisting of one industrial block (Block 1), one environmental protection block (Block 2), two wetland compensation blocks (Blocks 3 and 4), four vegetation protection zone blocks (Blocks 5, 6, 7, and 8), one future development block (Block 9), and one road widening block (Block 10), be received and endorsed by City Council with the following special conditions:

Development Engineering

1. That the owner acknowledges and agrees, in writing, to grant an easement in favour of the City to provide for access and inspection of all private facilities, including but not limited to, the private stormwater management pond(s), underground facilities, and low impact development features, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
2. That the owner acknowledges and agrees, in writing, that as a condition of the future site plan approval, they will be required to enter into a site plan agreement with the City to address long term maintenance and financial obligations for the private stormwater management features within the site, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
3. That the owner acknowledges and agrees, in writing, that a detailed stand-alone stormwater management report will be required for the site plan application for Block 1 prepared by a professional engineer, to address the following site specific stormwater management requirements in accordance with the Airport Employment Growth District subwatershed study and City's stormwater management criteria:
 - a. Demonstrate how the post development flow will be controlled to lesser of pre-development flows or unitary flow rates identified in the Airport Employment Growth District Sub-watershed Masterplan for all ranges of storm events including the 100-year event through an appropriate stormwater management system for each outlet on the subject lands;
 - b. The proposed stormwater management system to service Block 1 shall be designed considering SCS Type II design storm for all ranges (2 to 100 year);
 - c. The stormwater management design shall consider a filter media-landscaped based low impact development on Block 1 shown on the draft plan to achieve level 1 water quality control by infiltrating 10 mm rainfall in accordance with the Airport Employment Growth District Sub-watershed

Master Plan. In addition, the water balance and erosion controls shall also be considered to mitigate any potential erosion downstream;

- d. Quality and quantity requirements for 100% of the roof runoff shall be accommodated within the wetland compensation Blocks 3 and 4, as noted on the proposed Draft Plan of Subdivision subject to obtaining approval from Conservation Authorities and City of Hamilton Planning Division;
- e. Quality control requirements for the paved portion of Block 1, such as driveways, parking and loading areas shall be accommodated by low impact development features within Block 1 and within a 7.5 metre wide area within the adjacent vegetation protection zone blocks (Blocks 3 and 4), using treatment train approach;
- f. Quantity control requirements for the paved portion of Block 1, such as driveways, parking and loading areas shall be accommodated by a combination of:
 - i. dry pond(s) within a 7.5 metre wide area within the Block 6 and 7 vegetation protection zones, adjacent to Block 1; and,
 - ii. underground storage within the paved portion of Block 1. Furthermore, the owner agrees to provide a level of redundancy within Block 1 beyond the proposed underground storage and dry pond by way of surface ponding within the parking and loading areas with sufficient capacity to address flooding over catch basins overland flow routes as determined at detailed design and to provide mitigation measures, in case of blockages or storms greater than the 100-year storm event, considering a centralized control structure to discharge the allowable flow rate from both of the systems proposed above; and,
- g. The proposed storm outlets shall be located within Block 1 property limit at least 0.3 metre above the 100-year flood line of Twenty Mile Creek. The owner will be responsible to maintain, develop and implement a compliance and performance monitoring plan for all low impact development systems proposed within Block 1 in perpetuity;

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

4. That the owner acknowledges and agrees, in writing, to 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 Wastewater Capacity Allocation Policy. The monitoring plan shall occur for a period of not less than two 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.

5. That the owner acknowledges and agrees, in writing, that the subject subdivision has an allocated sanitary sewer capacity limit of 250 people/jobs for the entire site, all to the satisfaction of the Director of Growth Management and Chief Development Engineer. Should any future site plan application exceed this limit, the owner will be required to upgrade the sanitary sewer system, including the pumping station, prior to receiving site plan approval.
6. That, **prior to servicing**, the owner shall submit a written request to the Director of Development Engineering which includes verification to support the amount of wastewater capacity allocation required for the lands to be serviced and obtain written confirmation that the requested allocation has been secured, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
7. That, **prior to registration**, the owner shall submit the necessary transfer deeds to the City's Legal Department to convey Block 10, as noted on the proposed Draft Plan, to the City for road widening purposes to establish the ultimate width of Upper James Street, at approximately ± 22.5 metres from the centre line of the original road allowance, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
8. That, **prior to registration**, the owner shall pay a proportionate share for the future urbanization of Upper James Street along the frontage of the property based on the City's "New Road Servicing Rate" in effect at the time of payment in accordance with the City's financial policies, or the owner agrees to provide a letter of credit to secure the cost for the future urbanization of Upper James Street along the frontage of the property, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
9. That, **prior to registration**, the final plan of subdivision shall include an easement in the City's favour over the open channel Blocks 3 to 8, inclusive, for access, inspection, and monitoring, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
10. That, **prior to registration**, the owner and agent work with Legislative Approvals / Staging of Development staff to finalize municipal addressing for the proposed Blocks, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
11. That, **prior to preliminary grading**, the owner agrees to submit a surface water monitoring plan, prepared by a qualified professional, and establish two

monitoring locations as per City direction in order to monitor drainage across the subject lands from the proposed northerly storm outlet to the existing culvert at Upper James Street to ensure that the subject lands are not negatively impacted by the subject development. 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 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 two 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 \$200,000.00 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 two years after occupancy has been granted by the City, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

12. That, **prior to preliminary grading**, the owner agrees to complete and submit to the City a local door-to-door water well survey within the expected radius of influence or within 500 metres of the property, whichever is greater, and shall post an adequate security deposit to be used to address any negative impact on the existing water wells due to construction, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
13. That, **prior to preliminary grading**, the owner shall prepare and submit a Construction Management Plan and Report that provides:
 - a. Details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes, etc.;
 - b. Location and maximum dimensions of stockpiling;
 - c. Identification of any required sidewalk and/or lane closures and the estimated length of time for such closures;
 - d. Details on heavy truck routing;
 - e. Alternate arrangements of any City or school bus routing and stop locations that may be impacted; and,
 - f. 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.

14. That, **prior to preliminary grading**, the owner shall submit a Geotechnical and Hydrogeological report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts during any construction within the subdivision, including but not limited to building construction, and to undertake the works as recommended including a monitoring plan. The report shall also comment on the efficacy of low impact development measures to maintain infiltration. The report shall also provide a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:
- a. an aquifer is breached during excavation;
 - b. groundwater is encountered during any construction within the subdivision; and,
 - c. water supply and sewage disposal systems and any surface and groundwater related infrastructure are negatively impacted;

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

15. That, **prior to preliminary grading**, the owner acknowledges that a standalone channel design report prepared and stamped by a qualified professional should be submitted addressing the following parameters:
- a. Design flow (2 to 100 year) for the realigned HDF-01 and HDF-03 should be computed based on hydrological model considering 24-hour SCS Type II rainfall by providing all supporting model schematic and output files;
 - b. Confirming channel cross section (width, side slope, longitudinal slope, etc.) by considering representative n-value for overgrown vegetation confirmed through hydraulic model;
 - c. Realigned HDF-03 shall remain entirely open channel (upstream portion to be located in Block 4) from upstream to the outfall to the Twenty Mile Creek, save and except for the conveyance portion between Block 4 and

Block 2 which conveyance portion will be in a concrete box culvert open bottom; and,

- d. The outfall for the open channels (realigned HDF-01 and HDF-03) should be above 100 year flood line of Twenty Mile Creek;

all to the satisfaction of to the Director of Development Engineering.

16. That, **prior to preliminary grading**, the owner shall notify the downstream land owner(s) including 8475 English Church Road property (Willow Valley Golf Club) whose properties are traversed by the Twenty Mile Creek Tributaries from the stormwater management facility outlet to 250 metres east and north of the subject property, of a proposed stormwater management outfall, and impending stormwater management facility construction, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
17. That, **prior to preliminary grading**, the owner agrees to monitor drainage across Upper James Street and 8475 English Church Road (Willow Valley Golf Club) from the proposed storm outlet a minimum distance of 250 metres east and south of the subject property to ensure that 8475 English Church Road is not negatively impacted by the subject development. The development impact monitoring plan shall develop baseline conditions of the downstream systems on the 8475 English Church Road property (Willow Valley Golf Club) and the monitoring shall occur throughout the construction of the subdivision and for a period of not less than two 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 deposit for cash security for potential remedial works (the amount to be confirmed after detailed SWM submission). 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 two years after full buildout of the draft approved plan, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
18. That, **prior to preliminary grading**, the owner agrees, at their cost, to implement a monitoring plan for the realignment of the headwater drainage features associated with Twenty Mile Creek and proposed stormwater management facility, based on the terms of reference established by the Niagara Peninsula Conservation Authority and the City of Hamilton, in order to demonstrate that the proposed facility and realigned channel performs as designed and that there are no erosion issues downstream of the channel, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

The monitoring plan shall be in place throughout the construction of the subdivision and for a period of not less than two years after all blocks within the

draft approved plan are fully developed, with no reductions to the security amount held by the City of Hamilton below \$200,000.00, for said downstream monitoring and potential downstream remedial works from the realigned channel. In the event that a problem arises, the owner further agrees to complete the necessary remedial works at their cost, to the satisfaction of the Director of Growth Management and Chief Development Engineer.

19. That, **prior to preliminary grading**, the owner shall obtain all required approvals from Airport Authority/Transport Canada, Conservation Authority and other external Agencies, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
20. 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 etc., along Upper James Street at 100% the owner's cost, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
21. That, **prior to servicing**, the owner be required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Upper James Street entirely at the owner's expense, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.
22. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.5 metre black vinyl coated heavy-duty chain-link fence along Block 2, all to the satisfaction of the Director of Growth Management and Chief Development Engineer.

Growth Planning

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

Transportation Planning

24. That, **prior to registration**, the owner shall submit an updated Transportation Assessment for review and approval, which finalizes the improvements identified at the intersection of Upper James Street and the proposed site driveway access as follows:
 - a. A Traffic control signal to be constructed at the intersection of Upper James Street and proposed site driveway access;

- b. Northbound left-turn lane on Upper James Street with 50 metre storage, 80 metre deceleration and 80 metre taper length; and
- c. Southbound right-turn lane on Upper James Street with 60 metre storage and 80 metre taper length;

all to the satisfaction and approval of the Manager, Transportation Planning and the Manager, Transportation Operations and Maintenance.

- 25. That, **prior to registration**, the owner shall submit a detailed engineering design drawing and traffic control signal design drawing prepared by a qualified transportation consultant based on the ultimate findings of the Transportation Assessment. Prior to commencement of the detailed engineering design and traffic control signal design, the adjacent landowners on the opposing eastern side of Upper James Street shall be contacted to determine additional requirements for design based on consultation between parties and the City of Hamilton, all to the satisfaction and approval of the Manager, Transportation Planning and the Manager, Transportation Operations and Maintenance.
- 26. That, **prior to registration**, the owner shall submit costs associated with the works, including but not limited to the design and construction of the required traffic control device, and associated infrastructure along Upper James Street that will be at the sole expense of the owner, excluding potential improvements related to the adjacent landowners on the opposing eastern side of Upper James Street, all to the satisfaction and approval of the Manager, Transportation Planning and the Manager, Transportation Operations and Maintenance.
- 27. That, **prior to registration**, the owner shall provide the required right-of-way dedications along Upper James Street as per the City the Council Approved Urban Official Plan: Schedule C-2 - Future Right-of-Way Dedication, to achieve an ultimate right-of-way width of 45.0 metres, all to the satisfaction and approval of the Manager, Transportation Planning.

Natural Heritage

- 28. 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). Removal of trees is not to occur until this condition has been satisfied. The Tree Protection Plan will:
 - a. 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;

- i. In the event that removals are proposed outside of the restricted timing 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;
 - ii. Bats: In the event that 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;
 - b. 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,
 - c. A phasing plan for the removal of trees.
- all the satisfaction of the Director of Heritage and Urban Design.
29. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a grading plan that demonstrates grading associated with the development will be located outside of the vegetation protection zone to the satisfaction of the Director of Heritage and Urban Design. Exceptions will be made to accommodate the placement of stormwater management ponds within 7.5 metres of the vegetation protection zone (Blocks 6 and 7).
30. That, **prior to preliminary grading and/or servicing**, the owner acknowledges and agrees that that if a wildlife salvage permit is required for the removal of headwater drainage features HDF-01 and HDF-03 and the associated wetland communities, the owner is to be aware of the *Fish and Wildlife Conservation Act*, 1997 and agrees that written confirmation shall be provided, to the satisfaction of the Director of Heritage and Urban Design. A copy of the correspondence with the Ministry of Natural Resources and Forestry and the approved Permit will be submitted to the City for their records.
- a. As part of the wildlife salvage plan, details shall be provided for the rescue and relocation of terrestrial crayfish from HDF-01 into the new

northern channel, to the satisfaction of the Director of Heritage and Urban Design.

31. 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.
32. That, **prior to preliminary grading and/or servicing**, the owner shall prepare and implement a Transplant Plan for locally uncommon species Foxtail Sedge (*Carex alopecoidea*) and One-seed Bur Cucumber (*Sicos angulatus*) which shall include:
 - a. Methodology;
 - b. Timing of re-location;
 - c. GPS co-ordinates and mapping of individuals within the subject properties;
 - d. GPS co-ordinates and mapping of "replanting" area; and,
 - e. Photograph records of both the original sites and the replanting 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 species, 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 Director of Heritage and Urban Design.

33. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a water balance to assess how base flow will be maintained to the recreated wetlands, to the satisfaction of the Director of Heritage and Urban Design.
34. 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.
 - a. A wetland recreation ratio of 1.5:1 (minimum) is to be achieved;
 - b. The wetland design will provide for topographic variation to provide a diversity of wetland types (e.g., meadow marsh, shallow marsh, thicket swamp) and to increase the biodiversity of the wetland;

- c. The soil and topography of the wetland will ensure habitat requirements are provided for terrestrial crayfish; and,
 - d. The wetland design will incorporate wildlife habitat elements including logs and woody debris, and brush piles.
35. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a cost estimate for the wetland creation and post securities, to the satisfaction of the Director of Planning and Chief Planner.
36. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a phasing plan (as it relates to wetland removal) to the satisfaction of the Director of Heritage and Urban Design. The compensation wetlands are to be established and functioning prior to the removal of the on-site wetland.
- a. Removal of the existing northern channel is not to occur until at least four months post construction of the new channel and connection to the upstream channel. This is to ensure that terrestrial crayfish can migrate to the new channel. The four months are to overlap with May through October.
37. That, **prior to preliminary grading and/or servicing**, the owner shall prepare a detailed design for the realigned channels to the satisfaction of the Director of Heritage and Urban Design and the Niagara Peninsula Conservation Authority. This will include obtaining Permit(s) from Niagara Peninsula Conservation Authority pursuant to Ontario Regulation 41/24 for the wetland removals and re-creation as well as the headwater drainage feature realignments, if applicable.
38. That, **prior to preliminary grading and/or servicing**, the owner shall prepare and implement a Terrestrial Crayfish Salvage and Relocation Plan which shall include the following:
- a. The realigned channel is to be built prior to the removal of the existing headwater drainage channel (HDF-01); and,
 - b. Water flows to the existing HDF-01 should be blocked to encourage Terrestrial Crayfish to move from the existing HDF-01 to the new channel;
- all to the satisfaction of the Director of Heritage and Urban Design.
39. That, **prior to registration of the final plan of subdivision**, the owner shall provide annual monitoring reports on the health of the transplanted species for a period of two years post-transplant by January 31st of the year following the monitoring period, to the satisfaction of the Director of Heritage and Urban Design.

40. 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:
 - a. All plantings within the Vegetation Protection Zone shall use only non-invasive species native to Hamilton; and,
 - b. Plants supporting the life cycle needs of the Monarch butterfly are to be incorporated into the planting plan.
41. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Stewardship Action Plan which shall include, but not be limited to, the following:
 - a. fencing;
 - b. snow storage;
 - c. Landscape Maintenance Strategy (i.e., mowing, fertilizing);
 - d. signage; and,
 - e. bird-friendly design;all to the satisfaction of the Director of Heritage and Urban Design.
42. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a Landscape Plan showing the placement of compensation for tree removals in accordance with the Tree Protection Plan, to the satisfaction of the Director of Heritage and Urban Design. If trees cannot be accommodated on site, cash-in-lieu, following the City's User Fee, will be required.
43. 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 Plan no sooner than two years after vegetation planting of the wetland compensation areas and prepare a letter to confirm the wetland has achieved the proposed form and function as per the Wetland Design Plan, to the satisfaction of the Director of Heritage and Urban Design.

44. That, **prior to registration of the final plan of subdivision**, the owner shall prepare a 10 year Monitoring Plan for the recreated wetlands in Blocks 3 and 4, to the satisfaction of the Director of Heritage and Urban Design.
45. That, **prior to registration of the final plan of subdivision**, the owner agrees and acknowledges, in writing, the following:
 - a. created wetland shall be monitored for a period of ten years post installation (Years 1, 2, 3, 5, 7, 9, and 10) and the monitoring reports will be submitted to the City of Hamilton by January 31st of the following year monitoring was completed;
 - b. to implement the approved Invasive Species Management Plan to the satisfaction of the City; and,
 - c. 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;

all to the satisfaction of the Director of Planning and Chief Planner.

Urban Forestry

46. That, **prior to preliminary grading**, the owner shall submit a revised Tree Management Plan prepared by a MTCU Qualified Arborist, or ISA Certified Arborist, or a Registered Landscape Architect that includes all trees within the proposed development, to the satisfaction of the Director of Environmental Services.
47. That, **prior to preliminary grading**, the owner shall submit any applicable fees for any municipal trees related to the subdivision, to the satisfaction of the Director of Environmental Services.
48. That, **prior to preliminary grading**, the owner shall submit a revised Landscape Plan illustrating the street tree planting scheme, to the satisfaction of the Director of Environmental Services.

Niagara Peninsula Conservation Authority

49. That, **prior to any grading, pre-servicing, site alterations or registration of this plan or any phase thereof**, the owner shall submit detailed grading plans, storm servicing plans and stormwater management plans, and sediment and erosion control plans to the Niagara Peninsula Conservation Authority for review and approval. The following additional information must be added to the

appropriate plans to the satisfaction of Niagara Peninsula Conservation Authority:

- a. Please include a note in the Erosion and Sediment Control (ESC) section on the Civil Design Drawings that states all works, and specifically the watercourse realignments are to be undertaken during dry conditions only.
 - b. Please include a note on the appropriate plans that states Heavy Duty Silt Fencing will be used around the stockpile and maintained during the entire phase of construction as an added measure of protection to prevent sediment and/or materials from exiting this area and entering the features.
 - c. Please revise the Civil Design Drawings to include a note that identifies the location of the 15 m VPZ along the realigned watercourses.
 - d. Please ensure that the detailed Sediment and Erosion Control Plan includes a Spill Prevention and Contingency Plan.
 - e. Limit of work fencing shall be shown along the approved buffers of all NPCA regulated features and shall be maintained in good working order for duration of the construction to prevent impacts to these features and their buffers during the construction phase.
50. That, **prior to any grading, pre-servicing, site alterations or registration of this plan or any phase thereof**, the owner shall submit a detailed Staging and Sequencing Plan to the Niagara Peninsula Conservation Authority for review and approval which details the sequence of development activities.
51. That, **prior to any grading, pre-servicing, site alterations or registration of this plan or any phase thereof**, the owner shall submit a detailed Monitoring Plan that incorporates the recommendations outlined in the Environmental Impact Study and Water Balance Memo as well as Niagara Peninsula Conservation Authority comments noted above in this letter and includes regular (e.g. Annual) reporting to the Niagara Peninsula Conservation Authority for review and approval.
52. That all Blocks containing the wetlands (including recreated wetlands), watercourses, and flood hazards plus all required buffers shall be placed in appropriate zone categories to recognize the features and buffers and ensure long term protection against future development, site alterations and disturbances over the long term to the satisfaction of the Niagara Peninsula Conservation Authority.

53. That 1.5 meter high (minimum) chain link fencing be installed along the edges of all regulated features and buffers where they abut development including but not limited to: parking areas and roads.
54. That, **prior to construction or site alterations**, the owner shall obtain all appropriate work permits from the Niagara Peninsula Conservation Authority for the following:
 - a. All proposed wetland/watercourse buffer enhancement work. In support of the Work Permit application, the required information shall include, but not limited to:
 - i. A planting plan providing details about species, planting densities and locations.
 - ii. Any other information as may be determined at the time a Work Permit application is submitted to the Niagara Peninsula Conservation Authority.
 - b. The removal or disturbance of any wetland areas and re-creation of any and all wetlands. In support of the Work Permit application, the following information will be required:
 - i. A detailed compensation plan that indicates the design of the proposed wetland, construction methodology, material details, etc. (the Developer is to scope this requirement with Niagara Peninsula Conservation Authority staff prior to submitting a Work Permit application);
 - ii. A detailed monitoring plan (meeting Niagara Peninsula Conservation Authority monitoring requirements);
 - iii. The owner must enter into a Wetland Rehabilitation Agreement with the Niagara Peninsula Conservation Authority securing the implementation of the Wetland Restoration and Re-creation undertaking and the owner shall post securities to the Niagara Peninsula Conservation Authority in an amount, to be approved by the Niagara Peninsula Conservation Authority, to secure the full costs associated with implementing the Wetland Restoration and Re-creation undertaking. The owner will work to provide the Niagara Peninsula Conservation Authority with all information necessary to assess the cost of the Wetland Restoration and Re-creation undertaking; and,

- iv. Any other information as may be determined at the time a Work Permit application is submitted to the Niagara Peninsula Conservation Authority.
- c. The construction of any crossings over any Niagara Peninsula Conservation Authority regulated feature. In support of the Work Permit application, the following information will be required:
 - i. Detailed design and sediment control drawings and location plans of the proposed crossings;
 - ii. Confirmation that the proposed crossings will not serve to negatively impact Niagara Peninsula Conservation Authority regulated features (watercourses or floodplain); and
 - iii. Any other information as may be determined at the time a Work Permit application is submitted to the Niagara Peninsula Conservation Authority.
- d. The proposed watercourse realignments/relocations. In support of the Work Permit application, the following information will be required:
 - i. Detailed design drawings including Natural Channel Designs and sediment control drawings;
 - ii. Any other information as may be determined at the time of the Work Permit application is submitted to the Niagara Peninsula Conservation Authority.
- e. Any stormwater outlets into Niagara Peninsula Conservation Authority regulated features/buffers; and
- f. In addition to any other work permits as required under the above-mentioned Draft Plan Conditions, the Applicant shall obtain any and all other appropriate work permits from the Niagara Peninsula Conservation Authority for any other work that may take place within an area regulated by the NPCA, pursuant to the provisions of the Conservation Authorities Act, R.S.O. 1990, c. C.27.

Alectra Utilities

55. That, **prior to registration of the plan of subdivision**, the owner shall agree, in words satisfactory to Alectra Utilities Corporation, to grant to Alectra Utilities Corporation 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 Alectra Utilities Corporation facilities or easements, the owner shall be responsible for the relocation of such facilities or easements.

Bell Canada

56. That, **prior to registration**, the owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development and the owner further agrees and acknowledges to convey such easements at no cost to Bell Canada, to the satisfaction of Bell Canada.
57. 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, to the satisfaction of Bell Canada.

Enbridge Gas Inc.

58. That, **prior to registration**, the owner acknowledges and agrees to provide any easement(s) or agreements(s) as deemed necessary by Enbridge Gas Inc. to service this new development and the owner further agrees and acknowledges to provide such easement(s) and agreements(s) at no cost to Enbridge Gas Inc., to the satisfaction of Enbridge Gas Inc.

Canada Post:

59. That **prior to registration**, the owner shall receive written confirmation from Canada Post as to whether centralized mail boxes are required to serve the proposed subdivision. Shall it be determined that centralized mail boxes are required the following conditions are applicable:
- a. That prior to registration, the following conditions shall be included in the subdivision agreement, the owner shall include in any and all Agreements of Purchase and Sale and registered as notice on title for lots and blocks within the Draft Plan;
- In respect of Canada Post centralized mail boxes:
- i. "Purchasers are advised that the home / business mail delivery will be from a designated Centralized Mail Box".
- ii. A notice advising the prospective purchasers of the location of a Centralized Mail Box for their home/business mail delivery.
- b. 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 cooperation 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.
- c. 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:

60. 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

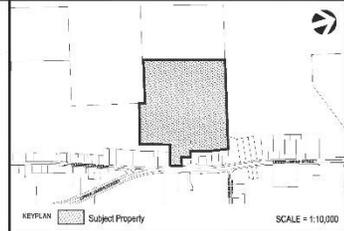
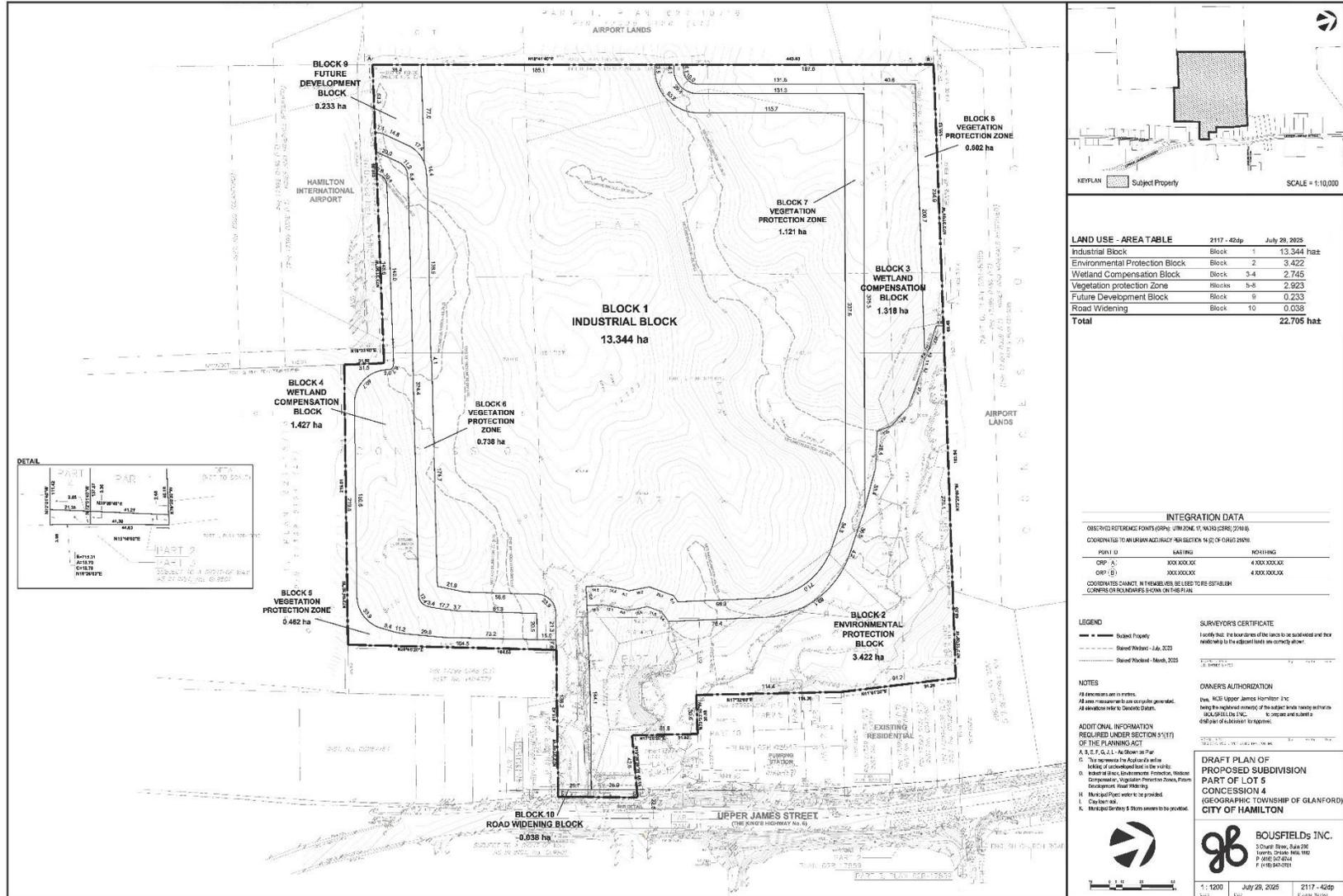
Legislative Approvals:

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.

SCHEDULE D



LAND USE - AREA TABLE 2117 - 42dp July 28, 2025

Block	Area (ha)
Industrial Block	13,344
Environmental Protection Block	3,422
Wetland Compensation Block	2,746
Vegetation protection Zone	2,923
Future Development Block	0,233
Road Widening	0,038
Total	22,705

INTEGRATION DATA

OBSERVED REFERENCE POINTS (ORP) WITH ZONE ID, UTM ZONE ID, UTM COORDINATES (Easting, Northing)

POINT ID	EASTING	NORTHING
ORP - A	300 300.00	4 000 000.00
ORP - B	300 000.00	4 000 000.00

COORDINATES CHANGE AT THEMER MER BE USED TO ESTABLISH CORRESPONDING POINTS ON THE PLAN

LEGEND

- Subject Property
- Surveyed Wetland - July, 2023
- Surveyed Wetland - March, 2025

SURVEYOR'S CERTIFICATE
I certify that the boundaries of the lands to be surveyed and the measurements thereon are correct and true.

NOTES

- All measurements are in meters.
- All area measurements are in hectares.
- All boundaries refer to Ontario's Status.

OWNERS AUTHORIZATION
I, the undersigned, being the owner of the lands described herein, do hereby authorize the undersigned to prepare and submit a draft plan of subdivision for approval.

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 5(1) OF THE PLANNING ACT

- A, B, E, F, G, I, J - As shown on Plan O.
- The proposed subdivision will include of unconsolidated lands in the vicinity.
- Identify Areas of Environmental, Historical, Wetland Compensation, Vegetation Protection Zones, Future Development, Road Widening.
- Municipal Property water to be provided.
- City land use.
- Municipal Services 5 items shown to be provided.

DRAFT PLAN OF PROPOSED SUBDIVISION PART OF LOT 5 CONCESSION 4 (GEOGRAPHIC TOWNSHIP OF GLANFORD) CITY OF HAMILTON

BOUSFIELD'S INC.
5 Church Street, Suite 200
Hamilton, Ontario, M5S 1S2
P: (905) 577-8944
F: (905) 577-8944

1:1200 July 28, 2025 2117 - 42dp
Scale Date Drawing

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 12, 2025

CASE NO(S): OLT-24-001189

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	UHOPA-22-014
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton
OLT Case No:	OLT-24-001189
OLT Lead Case No:	OLT-24-001189
OLT Case Name:	RCG Upper James Hamilton Inc. et al. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	ZAC-22-027
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton/Hamilton
OLT Case No:	OLT-24-001190
OLT Lead Case No:	OLT-24-001189

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

Applicant/Appellant	RCG Upper James Hamilton Inc. and Pure Upper James Street Holdings ULC
Subject:	Proposed Plan of Subdivision – Failure of Approval Authority to make a decision
Description:	To permit the development of two industrial buildings, parking, and loading bays.
Reference Number:	25T-202205
Property Address:	2876 Upper James Street
Municipality/UT:	Hamilton/Hamilton
OLT Case No:	OLT-24-001191
OLT Lead Case No:	OLT-24-001189

Heard: October 29, 2025, by video hearing

APPEARANCES:

Parties

Counsel

RCG Upper James Hamilton Inc. & Pure Upper James Street Holdings ULC	Ira Kagan Sarah Kagan
City of Hamilton	Rachel McVean

MEMORANDUM OF ORAL DECISION DELIVERED BY D. CHIPMAN AND G. DRIEDGER ON OCTOBER 29, 2025 AND ORDER OF THE TRIBUNAL

[1] In accordance with Rule 24.4 of the Tribunal's Rules of Practice and Procedure, whereby the Tribunal may at any time and without prior notice to the Parties correct a technical or typographical error made in a decision or order, the Decision and Order issued on November 14, 2025, is hereby amended to change reference number in the Title of Proceedings for OLT Case No. OLT-24-001191 from 25T-202204 to 25T-202205.

[2] In all other respects, the Tribunal's Decision and Order remains the same.

"D. Chipman"

D.CHIPMAN
MEMBER

"G. Driedger"

G. DRIEDGER
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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.