

That this approval for the Revised Draft Plan of Subdivision, 25T-201309, prepared by A.J. Clarke and Associates Ltd. and certified by B.J. Clarke, O.L.S., dated, April 22, 2015, consisting of four blocks (Block 1, 27, 29, and 36) for medium density use, twenty eight blocks (Block 2 - 6, 8 - 26, and 30 - 33) for low density uses, one block for commercial purposes (Block 28), one block for a parkette (Block 34), two blocks for stormwater management facilities (Block 7 and Block 35) and 9 internal public roads (Streets A - I) subject to the owner entering into a standard Form Subdivision Agreement, received, and approved by City Council with the following special conditions.

### **Development Planning, Heritage and Design**

1. That the owner / applicant shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner / applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning.
2. That, prior to registration of the final plan of subdivision, the owner / applicant agrees to include the following warning clause in all purchase and sale and / or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

"Garages are intended for use as parking. It is the owner's responsibility to ensure that their parking needs can be met on their own property. On - street parking in this area is limited and cannot be guaranteed in perpetuity."

### **Hydro One**

3. Prior to final approval, copies of the lot grading and drainage plan, showing existing and final grades, must be submitted to HONI in triplicate for review and approval. Drainage must be controlled and directed away from OILC / HONI transmission corridor.
4. Temporary fencing must be installed along the edge of the transmission corridor prior to the start of construction at the developer's expense.
5. Permanent 1.5 metre fencing must be installed along the mutual property line after construction is completed at the developer's expense.

6. ORC / HONI transmission corridor is not to be used without the express written permission of Hydro One Networks Inc. on behalf of OILC. During construction there will be no storage of materials or mounding of earth, snow or other debris on the transmission corridor. The proponent will be responsible for restoration of any damage to the transmission corridor or HONI facilities thereon resulting from construction of the subdivision.
7. The costs of any relocations or revisions to HONI facilities that are necessary to accommodate this subdivision will be borne by the developer.
8. If the proposed development is within close proximity to a Transmission or Distribution station the following applies:
  - a) The Developer hereby confirms and agrees that every agreement of purchase and sale heretofore and hereafter entered into by the Developer with any purchaser(s) of any unit or proposed unit in the Development contains the following notice / warning provisions (or clauses substantially similar thereto in all respects), namely:

"Each unit purchaser and/or lessee specifically acknowledges and agrees that the development of the Lands upon which this Development is being (or has been) constructed, will be (or has been) undertaken and completed in accordance with any requirements that may be imposed from time to time by any Governmental Authorities, and that the proximity of this Development to facilities, installations and / or equipment owned and/or operated by HONI may result in noise, vibration, electro-magnetic interference and stray current transmissions (hereinafter collectively referred to as the "Interferences") to this Development, and despite the inclusion of control features within this Development, Interferences from the aforementioned sources may, occasionally interfere with some activities of the occupants in this Development Notwithstanding the above, each unit purchaser and/or lessee agrees to indemnify and save HONI and harmless, from and against all claims, losses, judgments or actions arising or resulting from any and all of the Interferences. In addition, it is expressly acknowledged and agreed that HONI does not, and will not, accept any responsibility or liability for any of the Interferences in respect of this Development and / or its occupants. Furthermore, there may be alterations and / or expansions by HONI to its facilities and / or transformer station which may temporarily affect the living environment of the residents notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the Development. HONI will not be responsible for any complaints or claims or any kind howsoever arising from use, expansion and / or alterations of such facilities and / or operations on, over or under its transformer station. Furthermore, each unit purchaser and/or lessee acknowledges and agrees that an electro-magnetic, stray

current and noise-warning / vibration clause similar to the foregoing shall be inserted into any succeeding or subsequent sales agreement, lease or sublease, and that this requirement shall be binding not only on the Purchaser hereunder but also upon the Purchaser's respective heirs, estate trustees, successors and permitted assigns, and shall not cease or terminate on the closing of this purchase and sale transaction with the Vendor / Declarant."

- b) The Developer covenants and agrees that so long as the City does not object thereto, the language set out in Section 7(a) hereof (or language substantially similar thereto) shall also be included in the Site Plan Agreement entered into by the Developer with the City of Hamilton to be registered on title to the Development.

### **Development Engineering**

9. That, **prior to registration of the plan of subdivision**, the Owner pays their proportional share for the future urbanization of Swayze Road and Regional Road #56 adjacent to Block 17, Block 35 and Block 36 based on the City's "New Roads Servicing Rate" in effect at the time of payment, to the satisfaction of the Senior Director, Growth Management Division.
10. That, **prior to registration of the plan of subdivision**, the Owner pay for their share of any outstanding servicing costs, including the installation of sidewalks, associated with the removal of the 0.3m reserve identified as Block 10 and Block 11 on Plan 62M-1069 adjacent to Block 1 and Block 27 of the draft plan, to the satisfaction of the Senior Director, Growth Management Division.
11. That, **prior to registration of the plan of subdivision**, the Owner demonstrates that Street 'A' align with the low point in the vertical alignment of Bellagio Avenue on the final plan of subdivision, to the satisfaction of the Senior Director, Growth Management Division.
12. That, **prior to registration of the plan of subdivision**, Street 'A', Street 'E' and Street 'G' be established as a 20.0m wide public street on the final plan of subdivision, to the satisfaction of the Senior Director, Growth Management Division.
13. That, **prior to registration of the plan of subdivision**, the Owner obtains the City's approval for the horizontal and vertical alignment of the intersection between Terryberry Road and Regional Road #56, to the satisfaction of the Senior Director, Growth Management Division.
14. That, **prior to registration of the plan of subdivision**, the Owner demonstrates that the horizontal alignment of the streets shown on the final plan of subdivision

meets the minimum geometric standards of the current Development Engineering Guidelines, and that the intersection of Street 'C' and Terryberry Road is established as a 'T' – intersection, all to the satisfaction of the Senior Director, Growth Management Division.

15. That, **prior to registration of the plan of subdivision**, the following daylight triangles be established on the final plan of subdivision:
  - a 15.0 metre by 15.0 metre daylight triangles at the intersection of Terryberry Road and Regional Road #56;
  - a 9.14 metre by 9.14 metre daylight triangles at the intersection of Bellagio Avenue with Terryberry Road, Street 'A' and Street 'G';
  - a 9.14 metre by 9.14 metre daylight triangles at the intersection of Terryberry Road with Street 'C', Street 'D', Street 'E' and Street 'I'; and
  - a 4.57 metre by 4.57 metre daylight triangles at the intersection of all other street within the draft plan lands.
16. That, **prior to registration of the plan of subdivision**, the Owner shall submit the necessary transfer deeds to the City's Legal Services to convey, to the City, Block 7 and Block 35, for stormwater management facilities, and Block 34 for parkland, of the draft plan, to the satisfaction of the Senior Director, Growth Management Division.
17. That, **prior to registration of the plan of subdivision**, the Owner shall submit a parking plan to demonstrate that a minimum 40% of on-street parking, based on the total number of units, is provided on the plan of subdivision, to the satisfaction of the Senior Director, Growth Management Division.
18. That, **prior to registration of the plan of subdivision**, the Owner shall submit sufficient security deposit to the City for the cost of installation of a 1.5m wide concrete sidewalk on Bellagio Avenue adjacent to Block 1 and Block 27 at their expense, to the satisfaction of the Senior Director, Growth Management Division.
19. That, **prior to registration of the plan**, the Owner shall pay the cost for the installation of a sanitary sewer stub from the sanitary trunk sewer on Hwy#56 to the property line, based on actual construction costs, to the satisfaction of the Senior Director, Growth Management Division.
20. That, **prior to preliminary grading**, the Owner submits a staging plan completed with the sufficient back up info to demonstrate how the function of the temporary stormwater management facility within the draft plan lands is going to be maintained until the ultimate storm water management plan for the entire catchment has been implemented, all at their costs and to the satisfaction of the

Senior Director, Growth Management Division and the Niagara Peninsula Conservation Authority.

21. That, **prior to preliminary grading**, the Owner submits a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes, all at their expense and to the satisfaction of the Senior Director, Growth Management Division.
22. That, **prior to preliminary grading**, the Owner shall submit a calibrated Hydrologic model in consideration with Hydrometeorologic and Fluvial Geomorphologic data downstream. The approved calibrated hydrologic model shall demonstrate erosion flow exceedance and pre-development peak flow targets based on a geomorphologic and hydraulic assessment of Sinkhole Creek tributaries from Hwy # 56 to Hendershot Road, to the satisfaction of the Senior Director, Growth Management Division and the Niagara Peninsula Conservation Authority.
23. That, **prior to preliminary grading**, the Owner shall obtain approval from all relevant approval agencies including but not limited to the Niagara Peninsula Conservation Authority, MOE&CC and City of Hamilton for installation of the storm outfall at Hwy # 56, to the satisfaction of the Senior Director, Growth Management Division.
24. That, **prior to preliminary grading**, the Owner acknowledges that the preliminary grading shall not be commenced until the storm outlets from the proposed wet SWM pond to Sinkhole Creek, east of Hwy # 56 are constructed at the owner's cost and are operational as per the design approved by the Niagara Peninsula Conservation Authority (NPCA) and the City of Hamilton, to the satisfaction of the Senior Director, Growth Management Division.
25. That, **prior to preliminary grading**, the Owner agrees to monitor drainage across the lands from Hwy # 56 to Hendershot Road to ensure that the existing lands are not negatively impacted by the development. The monitoring plan will occur throughout the construction of the subdivision and for a period of not less than 2 years after all lot/blocks within the draft approved plan are fully developed. In the event that a problem arises, the Owner further agrees to take the necessary remedial action as per monitoring report at their cost. The engineering design and cost schedule for the outlet works shall include a minimum of \$200,000 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 draft approved plan, to the satisfaction of the Senior Director, Growth Management Division.

26. That, **prior to preliminary grading**, the Owner shall demonstrate that the subject development has riparian rights to drain onto private lands. The Owner shall notify the downstream land owner(s) whose properties are traversed by Sinkhole Creek from Hwy # 56 to Hendershot Road, of a proposed SWM outfall, and impending pond construction, to the satisfaction of the Senior Director, Growth Management Division.
27. That, **prior to preliminary grading**, the Owner shall submit a detailed stormwater management report prepared by a qualified professional engineer, in accordance with the City of Hamilton Drainage Policies, City of Hamilton Stormwater Infrastructure Guidelines and the MOE&CC Stormwater Management Planning and Design Manual (2003), all to the satisfaction of the Senior Director, Growth Management Division and the Niagara Peninsula Conservation Authority:
- i. Demonstrating how erosion, quality and quantity control criteria established by the draft plan condition for the subject lands will be achieved during all phases of development (interim and full build-out);
  - ii. Demonstrating that the design accommodates for the conveyance of the Regional storm event flow from the subject site to Sinkhole Creek east of Hwy # 56;
  - iii. Demonstrating that the hydraulic performances for the proposed outlet pipes between dry and wet SWM facilities, and the pipes (box culvert) from the proposed wet SWM facility outlet to Sinkhole Creek will perform as a suitable outlet in accordance with City of Hamilton Stormwater Infrastructure Design Guidelines.
  - iv. Verify and develop a stage-storage-discharge curve for two in-line ponds to confirm adequate storage volumes based on allowable release rates from each pond. The proposed SWM and facility rating curve shall be evaluated using the Elfrida Subwatershed Study Model, if available in a reasonable time frame.
  - v. Verify that the proposed SWM facilities, Block 7 and Block 35 are of sufficient size and shape to adequately accommodate the ultimate SWM facility and accommodate any external drainage areas. Until such time as the size and shape are confirmed Blocks, 5, 6,8,9,10,11 and 36 shall be undevelopable. The SWM facility design geometry shall be as per the City of Hamilton Criteria and Guidelines for Stormwater Infrastructure Design(2007), and facility landscaping as per the City of Hamilton Landscape Design Guideline for SWM facilities(2009)

28. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for construction of municipal sidewalks as per current City of Hamilton policy in force at the time of the engineering plan submission, to the satisfaction of the Senior Director, Growth Management Division.
29. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for installation of a 1.5m high black vinyl coated heavy duty chainlink fence between private and public lands to the satisfaction of the Senior Director, Growth Management Division.
30. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for installation of a 1.5m high chainlink fence along the rear of Blocks 16 to 18, inclusive, adjacent to the Hydro lands at their expense and to the satisfaction of the Senior Director, Growth Management Division.
31. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision to redirect the sanitary flows from Bellagio Avenue and the existing sanitary pumping station to the proposed sanitary sewer on Terryberry Road at his expense and to the satisfaction of the Senior Director, Growth Management Division.
32. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision to urbanize Regional Road #56, from Rymal Road East to the intersection with Terryberry Road to the satisfaction of the Senior Director, Growth Management Division.
33. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for adequate traffic control at the intersection of Regional Road #56 and Terryberry Road at their expense and to the satisfaction of the Senior Director, Growth Management Division.
34. That, the Owner agrees that a maximum of 100 residential units of the plan of subdivision shall be permitted to be constructed with only one(1) public road access to service each phase of development. A second public road access to the subject lands is required, prior to development, beyond the initial one hundred(100) residential units, to the satisfaction of the Senior Director, Growth Management Division.
35. That, **prior to servicing**, the Owner shall submit a Hydrogeological Report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, provide recommendations to mitigate the groundwater impacts during any construction within the subdivision including, but not limited to, house construction, address the impacts of the pond bottom elevation below the groundwater table, and to undertake any mitigative works, as

recommended, including monitoring. The report shall 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 construction;
- iii) sump pumps, if required, are found to be continuously running; and,
- iv) Water supply and sewage disposal systems, and any surface and groundwater related infrastructure, are negatively impacted.

36. That, **prior to servicing**, the Owner, through a soil consultant or other qualified consultant, shall: check existing wells which provide potable water supply to properties located within 500m distance of the subject lands to establish the existing depth of water within wells, prior to commencement of construction; monitor these wells during construction and continue monitoring and check the wells after completion of construction until full buildout of the subdivision. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Senior Director, Growth Management Division.

37. That, **prior to servicing**, the Owner shall submit a detailed sump pump design to include a secondary relief/overflow to the surface. The pump design shall consider the weeping tile inflow based on the groundwater and severe wet weather conditions, to the satisfaction of the Senior Director, Growth Management Division.

38. That, the Owner agrees in writing to include in the subdivision agreement the following major overland route warning clause for prospective purchasers :

"Home Purchasers on Street D & E are advised that despite the inclusion of an adequate pipe outlet between the two stormwater management facilities, the street D & E are designed to accommodate an emergency spillway for upstream storm pond and the flooding on these streets is expected during a severe storm event.

39. That, **prior to assumption** of the stormwater management facilities, the Owner agrees in writing with the following requirements:

- i) To submit an operation and maintenance manual, as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009), for approval by the Senior Director, Growth Management, and inspect and monitor the storm water management



- facility upon commencement of construction or pre-grading of the subject lands through to assumption of the facility;
- ii) To keep detailed logs concerning stormwater management facility performance and maintenance, including costs for cleaning and removal of sediment, and submit such logs to the City during pre-grading and construction activities in accordance with the operation manual;
  - iii) To construct, operate and maintain at the Owner's expense, the storm water management facility, in a manner acceptable to the City, including any changes to conditions of the MOE&CC'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 Senior Director, Growth Management; and,
  - iv) To remove sediment from the storm water management facility attributed to development, carry out a bathymetric survey and verify volumetric capacity of the storm water management facility, prior to release of the Owner's operation and maintenance responsibilities for the storm water management facility;  
all to the satisfaction of the Senior Director, Growth Management Division.
40. That the Owner agrees in writing to hold on the plan registration or servicing of the draft plan lands, whichever comes first, until the trunk sanitary sewer along Regional Road #56 has been completed and commissioned by the City, to the satisfaction of the Senior Director, Growth Management Division.
41. That prior to registration, the final plan of subdivision shall include a block showing sufficient lands to be dedicated to the City of Hamilton as public highway by the Owner's certificate on the plan, to establish the intersection of Regional Road 56 at Terryberry Road, to the satisfaction of the City of Hamilton, Senior Director of Growth Management.
42. That prior to grading, the driveways in all bends in roads and in the cul-de-sac bulb Street "I" be reviewed and approved to ensure that there is no conflict between overlapping driveways on adjacent properties, to the satisfaction of the City of Hamilton, Senior Director of Growth Management, and the Director of Engineering Services , Public Works Department.

#### CITY COST SHARING

Acknowledgement by the City of Hamilton for its responsibility for cost-sharing with respect to this development shall be in accordance with the City's Financial Policies and will be determined at the time of development.

NOTES TO DRAFT PLAN APPROVAL

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 before the draft approval lapses.

The transmission lines abutting this subdivision operate at 500,000, 230,000 or 115,000 volts. Section 188 - Proximity - of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, require that no object be brought closer than 6 metres (20 feet) to an energized 500 kV conductor. The distance for 230 kV conductors is 4.5 metres (15 feet), and for 115 kV conductors it is 3 metres (10 feet). It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the *Act*. They should also be aware that the conductors can raise and lower without warning, depending on the electrical demand placed on the line.

This property is eligible for weekly collection of Garbage, Recycling, Organics, and Leaf and Yard Waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067.

The City of Hamilton has requested that the Owner shift Street 'A' easterly on the draft plan of subdivision, dated April 22, 2015. If the Owner revises the aforementioned plan, once draft approved, to incorporate units adjacent to the park block within Plan 62M-1069, and to enable the creation of lots within certain blocks of the draft approved plan, the revision to the draft approved plan of subdivision will only be subject to a scoped internal staff circulation to relevant departments, and not subject to an external circulation, providing each lot created complies with the amended zoning by-law.