

# Turkstra Mazza

Hamilton London Toronto

**Scott Snider**  
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Facsimile 905 529 3663  
[ssnider@tmalaw.ca](mailto:ssnider@tmalaw.ca)

July 24, 2017

## Via Email and Same Day Courier

Regional Municipality of Halton  
**Attn: Graham Milne, Acting Regional Clerk**  
1151 Bronte Road  
Oakville, ON. L6M 3L1

Dear Mr. Milne:

**Re: Appeal to Ontario Municipal Board of passing of By-Law 36-17  
Pursuant to Section 14 of the *Development Charges Act*, 1997  
Penta Properties Inc. Our File No. 13586**

We have been retained by Penta Properties Inc. ("Penta") in connection with the above noted matter. Our client owns approximately 285 hectares of land in the City of Burlington. These lands are part of the areas affected by the passing of the Region of Halton's ("Region") By-Law 36-17. Attached are figures showing the location of these lands which are known as Bronte Creek Meadows, 1200 King Road and Eagle Heights ("Subject Lands").

### Description of Lands Affected

Bronte Creek Meadows is approximately 133 hectares in area and is bounded by Upper Middle Road, Burloak, Mainway and Sheldon Creek. These lands are proposed for mixed use development. The lands located at 1200 King Road are approximately 50 hectares in area and are bounded by highway 403, King Road and the Canadian National Railway. These lands are also proposed for mixed use development. Lastly, the Eagle Heights lands are approximately 102 hectares in area and bounded by Waterdown Road and Grindstone Creek. These lands are proposed for residential development.

Our client's engineering consultant, Metropolitan Consulting Inc., provided a written submission in advance of the May 10 Administration and Finance Committee meeting. The submission outlined Penta's concerns with the By-Law as it relates to the Subject Lands. A copy of the submission is attached.

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TURKSTRA MAZZA ASSOCIATES, LAWYERS

**Attn: Mr. G. Milne**  
**July 24, 2017**

Penta's objections to the By-Law include the following (as more particularly described in the attached Metropolitan submission):

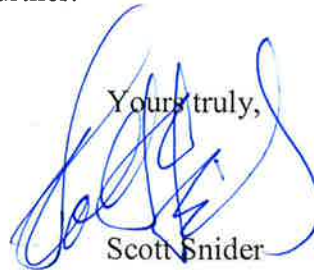
1. The proposal to allocate linear water and wastewater service costs on an area specific basis, particularly in respect of Bronte Creek Meadows and 1200 King Road;
2. The categorization of 1200 King Road and Bronte Creek Meadows as "Greenfield" rather than within the "Built Boundary";
3. Even if appropriate to allocate service costs on an area specific basis, the calculation of those costs particularly in relation to Bronte Creek Meadows and 1200 King Road;
4. The implementation schedule for a number of water and wastewater projects applicable to Eagle Heights.

The reasons supporting these objections are set out in the Metropolitan submission.

Appeal to the Ontario Municipal Board

Pursuant to section 14 of the *Development Charges Act*, we hereby appeal the passing of By-Law 36-17 to the Ontario Municipal Board. We enclose a cheque made payable to the Minister of Finance in the order of \$300.00 as the appropriate filing fee along with a completed A1 form.

Please let us know if you require anything further.

Yours truly,  
  
Scott Snider

13586/1  
at:ss:nd  
Encls.

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**TURKSTRA MAZZA ASSOCIATES, LAWYERS**



April 28, 2017

Mr. Mark Scinocca  
Commissioner and Regional Treasurer  
The Regional Municipality of Halton,  
1151 Bronte Road,  
Oakville, Ontario

Dear Sir,

### **Region of Halton 2017 Development Charges Background Study**

We represent Penta Properties Inc. owners of three large parcels of land in Burlington affected by the 2017 Development Charges Background Study. The land parcels are shown on the attached Figure 1 and are known as Bronte Creek Meadows, 1200 King Road and Eagle Heights:

**Bronte Creek Meadows** 133 ha in area bounded by Upper Middle Road, Burloak Drive, Mainway and Sheldon Creek is proposed for Mixed Use Development.

**1200 King Road** 50 ha in area bounded by Hwy 403, King Road and CNR is proposed for Mixed Use Development.

**Eagle Heights** 102 ha in area bounded by Waterdown Road and Grindstone Creek is proposed for residential development.

We have reviewed the Background Study and the associated Technical Report and have comments and concerns regarding the impact of the proposed Development Charges.

### **Area Specific vs Region-wide DCs for Linear Water / Wastewater services (W/WW)**

One of the decisions that is required for the proposed By-Law structure is whether Linear W/WW DCs should be on an Area Specific basis or a Region wide basis. The Background Study recommends Area Specific basis. The justification for this recommendation is primarily that this has done since 1999. We believe that this should be reconsidered. As the Background Study states "The most common approach to structuring DC by-laws in Ontario is to implement a uniform municipal-wide charge". All

servicing components except W/WW linear components are calculated on a Region wide basis. **We request that consideration be given to revising the proposed by-law to provide for all W/WW DCs to be calculated on a Region wide basis.**

#### **Development categories for Penta lands**

If our request for reconsideration of the Region wide basis for W/WW DCs is not met, specific consideration is required for the development category, Built Boundary or Greenfield, which is applied to certain Penta lands.

As shown on Figure 2, the **1200 King Road** property, shown on Figure 2 as Greenfield, abuts Built boundary lands to the east, west and south and Highway 403 to the north and constitutes infill. Existing Water and Wastewater trunk mains have capacity for the development of the 1200 King Road lands. Existing infrastructure crosses the property. There are no DC water or wastewater trunk mains required for the full development of the 1200 King Road property. **The 1200 King Road property should therefore have its category revised and be designated Built Boundary as shown on Figure 3.**

Similarly, the **Bronte Creek Meadows** property, shown as Greenfield is surrounded on all sides by Built Boundary designated lands and clearly constitutes infill. It has existing DC infrastructure crossing the property (trunk sanitary sewer) and existing sanitary sewers and watermain on abutting streets (Upper Middle Road, Burloak Drive & Mainway) with capacity for the Bronte Creek Meadows development. **The Bronte Creek Meadows property should therefore have its category revised and be designated Built Boundary as shown on Figure 3.**

#### **Site Specific Charge for W/WW linear Components**

As stated above, there are no DC water or wastewater trunk mains required for the full development of the **1200 King Road property**. Since the development does not receive any benefit, the portion of the linear W/WW portion of the DC charge should be eliminated for the **1200 King Road lands**.

The **Bronte Creek Meadows** lands have existing DC infrastructure crossing the property (trunk sanitary sewer) and existing sanitary sewers and watermain on abutting streets (Upper Middle Road, Burloak Drive & Mainway) with capacity for the development. There is a 1050mm Zone 2 trunk w/m

proposed to be constructed on Upper Middle Road adjacent to the development. This trunk w/m is part of the overall Zone 2 distribution system and benefits the entire existing and proposed development within the Zone. The Bronte Creek Meadows lands benefit from the 1050mm trunk w/m is estimated to be less than 2%. **The linear W/WW portion of the DC charge should therefore be eliminated for the Bronte Creek Meadows lands** with the exception of an appropriate allowance for the benefit provided by the 1050mm trunk w/m.

### **Implementation Schedule**

The **Eagle Heights** property is part of the North Aldershot Policy Area on shown on the Technical Report Figure 1 – Study Area. A gravity sanitary sewer and water transmission, pumping facilities and storage upgrades are recommended for the North Aldershot Policy Area. The area will require “a separate study to further refine these infrastructure upgrades. We have been working with the Region on the “separate study” and are nearing completion. We are very concerned with the proposed implementation dates for related water and wastewater projects.

The relevant water projects proposed in the Technical Report, with proposed implementation dates, are :

Project # 5881	400mm watermain on North Service Road	2023/2025
Project # 6863	Waterdown Rd pumping station expansion	2023/2025
Project # 7014	400mm w/m from Waterdown Road pumping station to North Aldershot Reservoir	2025/2027
Project # 7570	North Aldershot Reservoir	2024/2026
Project # 6602	Storage expansion to existing Waterdown Rd Reservoir	2024/2026

The relevant Wastewater project proposed in the Technical Report is:

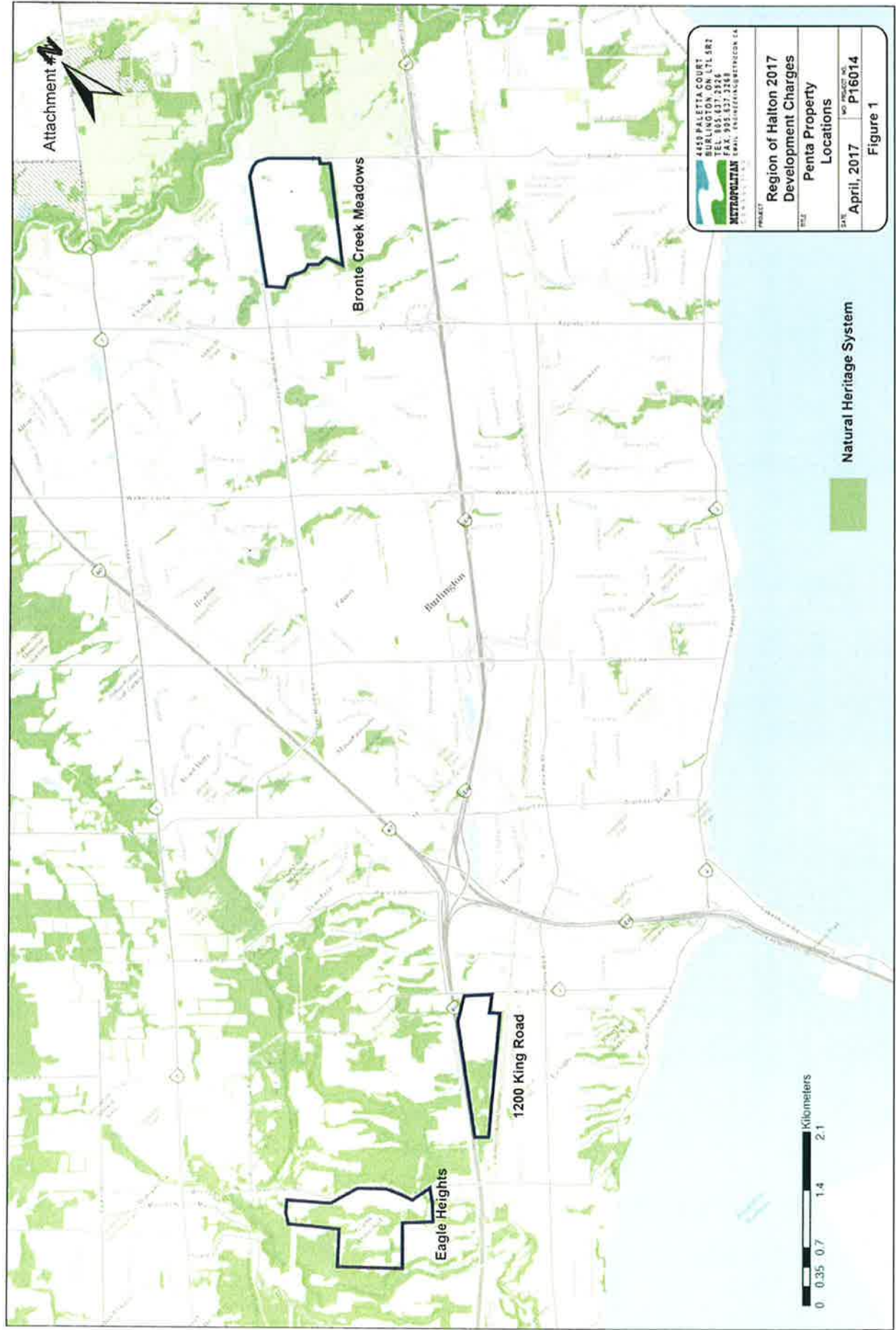
Project # 5907	300mm wastewater main	2024/2026
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The Eagle Heights development is expected to start construction in 2019. In order to avoid excessive delays to the Eagle Heights development, we request that the implementation dates for water projects #5881, #6863, #7014, #7570 & #6602 and wastewater project # 5907 be advanced to suit the proposed construction schedule.

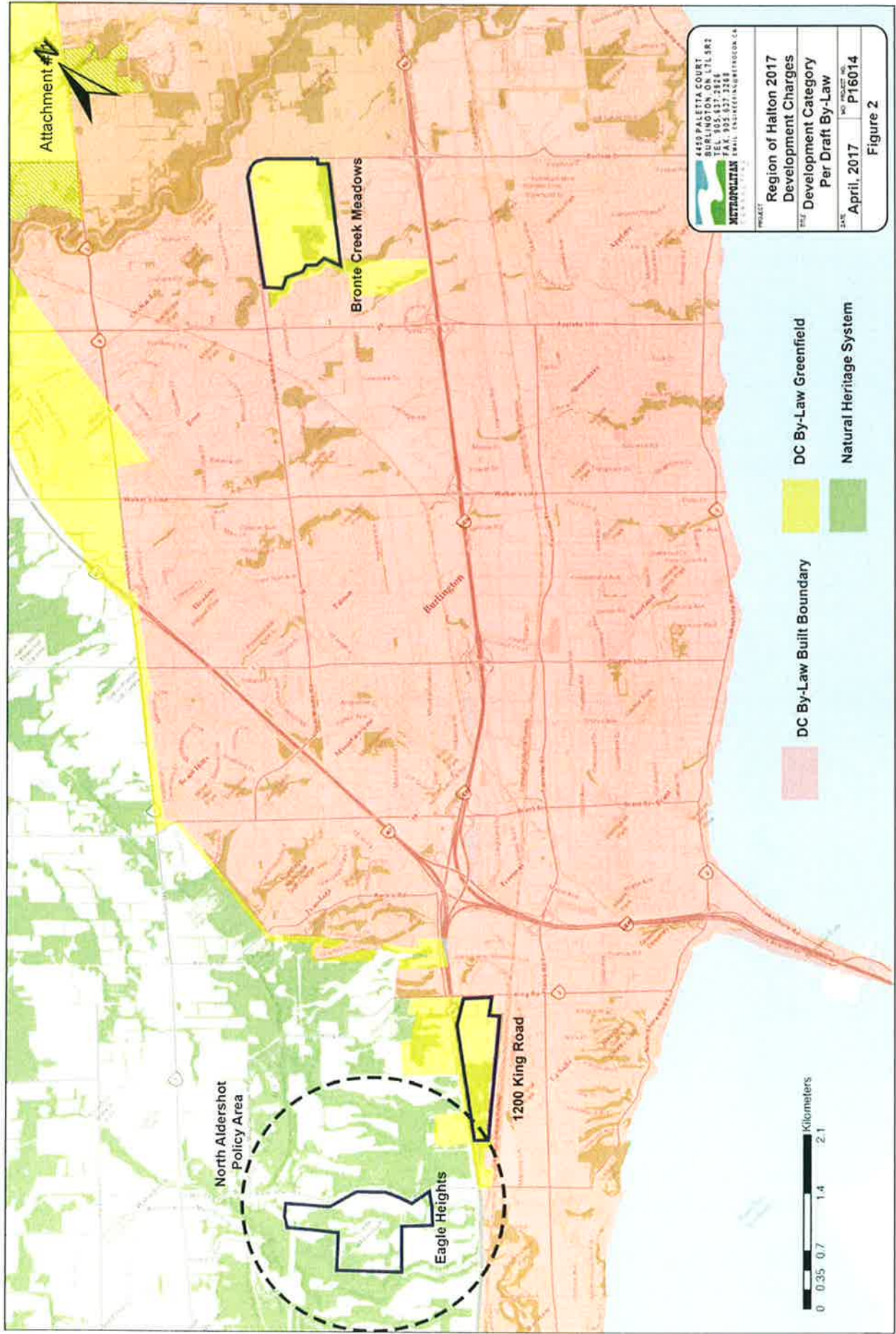
We would be pleased to meet with you to discuss our concerns.

Yours truly,

Karl Gonnsen, P. Eng, RPP, MCIP  
President









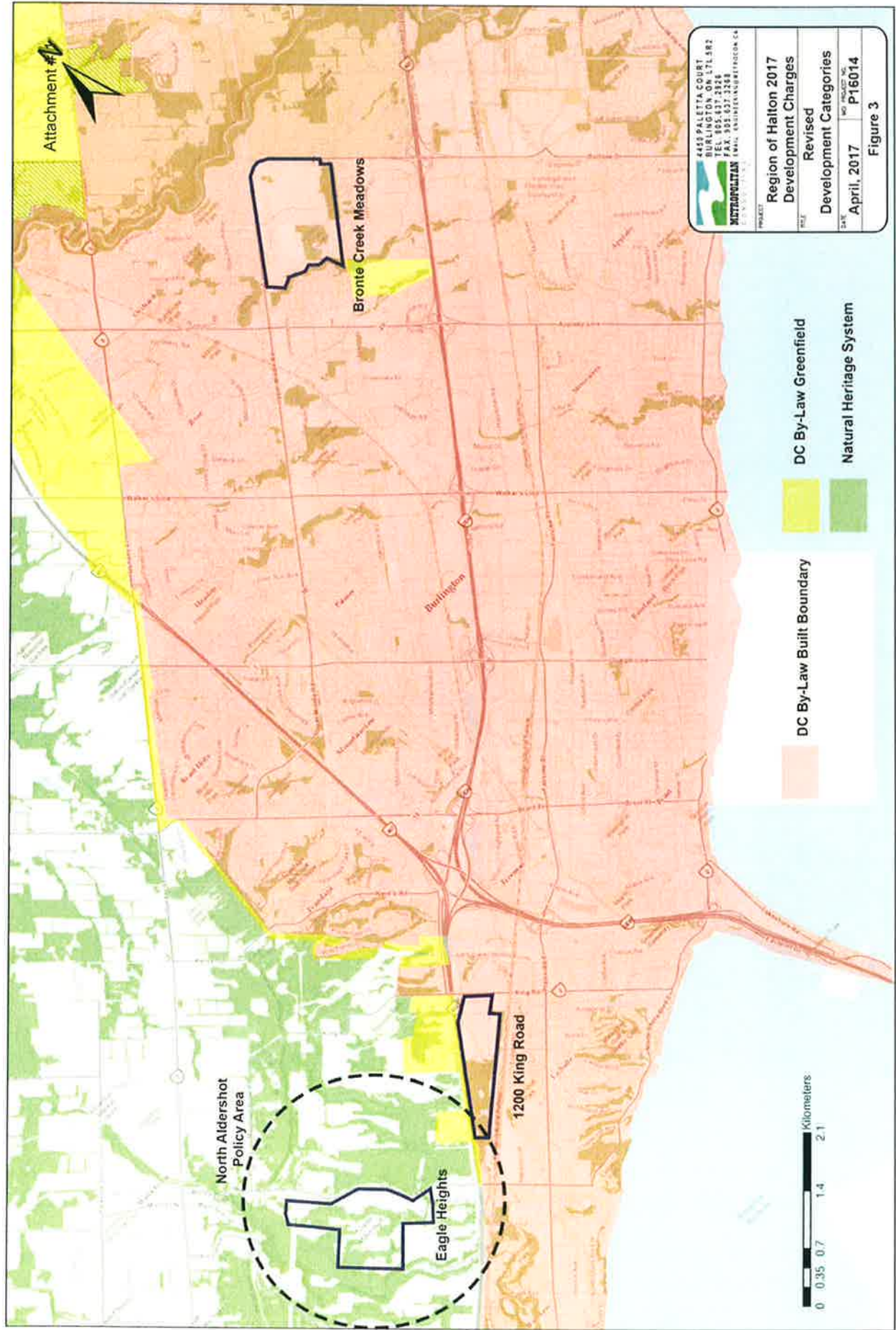


Figure 3



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: 416-212-6349  
Toll Free: 1-866-448-2248  
Fax: 416-326-5370  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

### Instructions for preparing and submitting the Appellant Form (A1)

- **Important: Do not send your appeal directly to the Ontario Municipal Board (OMB).**  
Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the municipality/approval authority will tell you where to send the form and appeal fee.
- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the OMB.
- We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act*, 2005. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at:  
Toll free: 1-866-448-2248; or  
TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the OMB. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee of \$300 is required for each type of appeal you are filing.  
Example: An appeal of an official plan and a zoning by-law would be \$300 + \$300 for a total fee of \$600.
- To view the Fee Schedule, visit the OMB's website [<http://elto.gov.on.ca/omb/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the OMB if you retain a representative after the submission of this form.
- The *Planning Act*, *Development Charges Act*, *Education Act* and *Ontario Municipal Board Act* are available on the OMB's website [<http://elto.gov.on.ca/omb/legislation-and-regulations/>].
- Fields marked with an asterisk (\*) are mandatory.



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Fax: 416-326-5370  
 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

### 1. Appeal Type (Please check all applicable boxes) \*

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	
	<input type="checkbox"/> Appeal conditions imposed	53(19)
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that <b>approved</b> a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

Subject of Appeal	Type of Appeal	Act Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input checked="" type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
Education Act Matters		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
Aggregate Resources Act Matters		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
Municipal Act Matters		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
Ontario Heritage Act Matters		
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

## Other Matters

Subject of Appeal	Act/Legislation Name	Section Number
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### 2. Location Information

Address and/or Legal Description of property subject to the appeal \*

1) Bronte Creek Meadows - 133 ha in area bounded by Upper Middle Road, Burloak Drive, Mainway and Sheldon Creek: 2) 1200 King Road - 50 ha in area bounded by Hwy 403, King Road and CNR and 3) Eagle Heights - 102 ha in area bounded by Waterdown Road and Grindstone Creek

Municipality \*

City of Burlington

Upper Tier (Example: county, district, region)

Region of Halton

### 3. Appellant/Objector Information

**Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name

First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) \*

Penta Properties Inc.

Professional Title

Email Address

Daytime Telephone Number \*

ext.

Alternate Telephone Number

Fax Number

### Mailing Address

Unit Number

Street Number \*

Street Name \*

PO Box

City/Town \*

Province \*

Country \*

Postal Code \*

### 4. Representative Information

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name

Snider

First Name

Scott

Company Name

Turkstra Mazza Associates

Professional Title

Lawyer

Email Address

ssnider@tmalaw.ca

Daytime Telephone Number

905-529-3476

ext.

Alternate Telephone Number

Fax Number

905-529-3663

### Mailing Address

Unit Number

Street Number

15

Street Name

Bold Street

PO Box

City/Town

Hamilton

Province

Ontario

Country

Canada

Postal Code

L8P1T3



**Note:** If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

☐ I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

## 5. Appeal Specific Information

Municipal Reference Number(s)  
By-Law No. 36-17

Outline the nature of your appeal and the reasons for your appeal \*  
See attached letter.

### Oral/written submissions to council

Did you make your opinions regarding this matter known to council?

☐ Oral submissions at a public meeting ☒ Written submissions to council

## 6. Related Matters

Are there other appeals not yet filed with the Municipality?

☐ Yes ☒ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

☐ Yes ☒ No

## 7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

☐ 1 day ☐ 2 days ☐ 3 days ☒ 4 days ☐ 1 week

☐ More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
Two

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)  
Land use planner and engineer

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

☒ Yes ☐ No

## 8. Required Fee

Total Fee Submitted \* \$ 300

Payment Method \* ► ☐ Certified cheque ☐ Money Order ☒ Solicitor's general or trust account cheque

## 9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative

Scott Snider

Signature of Appellant/Representative

Date (yyyy/mm/dd)

2017/07/24

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.



**Turkstra Mazza**

Hamilton London Toronto

15 BOLD STREET  
HAMILTON, ONTARIO  
CANADA L8P 1T3

THE BANK OF NOVA SCOTIA  
HAMILTON MAIN BRANCH  
12 KING STREET EAST  
HAMILTON, ONTARIO L8N 4G9  
60012

003081

18072017

DATE D D M M Y Y Y Y

\*\*\*\*\*Three Hundred and 00/100

\$\*\*\*\*\*300.00

**Minister of Finance**

for and on behalf of  
SCOTT SNIDER PROFESSIONAL CORPORATION  
GENERAL ACCOUNT

PAY  
TO THE  
ORDER  
OF

Notes: Appeal Fee - Our File No. 13586

⑈003081⑈ ⑆60012⑈0021⑈ 01422⑈12⑈