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October 25, 2016

City of Hamilton
Attn: Ms. R. Caterini, City Clerk
71 Main Street West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Dear City Clerk;

**Re: Penta Properties Inc.
198 First Road West and 165 Upper Centennial Parkway,
Former City of Stoney Creek
Appeals of Council's Failure to Make Decisions Regarding Applications for
Official Plan Amendment, Zoning By-law Amendment and Draft Plan of
Subdivision
Sections 2(7), 34(11) and 51(34) of the *Planning Act*
City File Nos. UHOPA 14-012, ZAC 14-027 & 25T-200908R
Our File No. 13381**

We are counsel to Penta Properties Inc. (Penta) in this matter.

On June 6, 2014, Penta made applications for an Official Plan Amendment, Zoning By-Law Amendment and Draft Plan of Subdivision for lands located at 198 First Road West and 165 Upper Centennial Parkway. The applications were deemed complete on June 18, 2015.

To date, Counsel has failed to make any decisions with respect to the applications. Pursuant to Sections 17(24), 34(11) and 51(34) we hereby appeal the applications to the Ontario Municipal Board.

We are attaching 3 completed Appeal Forms as well as cheques made payable to the Minister of Finance for the applicable appeal fees.

The contents of this communication are private and confidential, intended only for the recipient names above and are subject to lawyer and client privilege. It may not be copied, reproduced, or used in any manner without the express written permission of the sender. If you have received this communication and are not the intended recipient, please destroy it and notify the sender at 905 529-3476, collect if long distance. Thank you.

TURKSTRA MAZZA ASSOCIATES, LAWYERS

City of Hamilton
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Page 2

We are also filing appeals in respect of applications filed by Upper Centennial Developments Ltd. for the adjoining property at 165 Upper Centennial Parkway. These applications are closely related. The appeals should be consolidated with the subject appeals for the purposes of the first prehearing.

If there is anything else you may require, please do not hesitate to contact me.

Yours truly,



Scott Snider

Ss:nd
Encls.
13381/3

cc: Angelo Paletta
Dave Pitblado
Robert Clackett

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**Environment and Land Tribunals
Ontario**

Ontario Municipal Board

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Instructions for preparing and submitting the Appellant Form (A1)

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**APPELLANT FORM (A1)
PLANNING ACT**

**SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input checked="" 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	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

198 First Road West and 165 Upper Centennial Parkway, Stoney Creek
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Hamilton

Part 3: Appellant Information

First Name: Angelo Last Name: Paletta

Penta Properties Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-632-6036 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 4480 Paletta Court Burlington
Street Address Apt/Suite/Unit# City/Town
Ontario L7L 5R2
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

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Part 4: Representative Information (if applicable)

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

First Name: Scott Last Name: Snider

Company Name: Turkstra Mazza Associates

Professional Title: Lawyer

E-mail Address: ssnider@tmalaw.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-529-3476 Alternate Telephone #: _____

Fax #: 905-529-3663

Mailing Address: 15 Bold Street Hamilton
Street Address Apt/Suite/Unit# City/Town
Ontario L8P1T3
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: October 25, 2016

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board'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.

Part 5: Language and Accessibility

Please choose preferred language: English French

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.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

City of Hamilton File No. ZAC-14-027

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

The applications were deemed complete by the City on June 18, 2015. The City has failed to make a decision on the applications within 120 days.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** JUNE 6, 2014
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

The subject lands are generally located south of New Mud Street West and west of the Upper Centennial Parkway located in the Felker neighbourhood in the former City of Stoney Creek. The lands comprised 14.24 hectares. The application proposes to rezone the lands from Neighbourhood Institutional (I1), Community Shopping Centre (Holding) (SC2-5(H)) and Multiple Residential (RM4) to Multiple Residential (RM2-23), Conservation/Hazard (P5), Residential (R5-10) and Single Residential (R4)

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
- a. No
 - b. Yes
 - c.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)
City of Hamilton File Nos. 25T-200908R (Plan of Subdivision) & UHOPA 14-012 (OPA)

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
2

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

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? Identification of issues given lack of comments from the City

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 300.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, **payable to the Minister of Finance**.
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**

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Date Stamp - Appeal Received by Municipality

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Part 2: Location Information

198 First Road West and 165 Upper Centennial Parkway, Stoney Creek
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Hamilton

Part 3: Appellant Information

First Name: Angelo Last Name: Paletta

Penta Properties Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-832-6036 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 4480 Paletta Court Burlington
Street Address Apt/Suite/Unit# City/Town
Ontario L7L 5R2
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

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(Please print)

The applications were deemed complete by the City on June 18, 2015. The City has failed to make a decision on the applications within 180 days.

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a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
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First Name: Angelo Last Name: Paletta

Penta Properties Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

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By providing an e-mail address you agree to receive communications from the OMB by e-mail.

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Fax #: _____

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First Name: Scott Last Name: Snider

Company Name: Turkstra Mazza Associates

Professional Title: Lawyer

E-mail Address: ssnider@tmalaw.ca
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Fax #: 905-529-3883

Mailing Address: 15 Bold Street Hamilton
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Ontario L8P1T3
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Signature of Appellant:  Date: October 25, 2016

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board'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.

Part 5: Language and Accessibility

Please choose preferred language: English French

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.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

City of Hamilton File Nos. UHOPA 14-012

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

The applications were deemed complete by the City on June 18, 2015. The City has failed to make a decision on the applications within 180 days.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____

(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:

**If more space is required, please continue in Part 9 or attach a separate page.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

- a. No
- b. Yes

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

City of Hamilton File Nos. ZAC-14-027 (Zoning) & 25T-200908R (Plan of Subdivision)

Part 10: Required Fee

Total Fee Submitted: \$ 300.00

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**