

**From:** Scott Snider [mailto:ssnider@tmalaw.ca]  
**Sent:** Wednesday, April 25, 2018 9:10 AM  
**To:** Morgan, Angela  
**Cc:** 'Dave Pitblado'; 'Dana Anderson'; Anna Toumanians; Natalie Deluca  
**Subject:** City of Burlington New Draft Official Plan (April, 2018) Re: Penta Properties Inc. (Paletta) - Council Meeting - April 25th, 2018 - Our File No. 13282  
**Importance:** High

We are counsel to Penta Properties Inc. and Paletta International Corporation ("Penta") in this matter.

At yesterday's Planning and Development Committee meeting we were asked by Members of Committee to provide resolutions for Council's consideration in response to our delegation. The resolutions are attached. Would you please circulate to Members of Council at your earliest convenience.

You will note that one of the resolutions proposes a deferral particularly in respect of Bronte Creek Meadows. We note that in the staff report (PB-04-18) staff suggest that there is no "opportunity to defer a decision" under the Planning Act (page 1349 of the Agenda Package). There is simply no legal impediment to Council deferring any part of its decision on an official plan. Indeed, if one simply checks the current in force official plan you will find a table of deferrals.

A deferral in this case would simply reflect Council's choice to delay a decision for this particular site to allow the completion of additional studies. This does not prevent the City from otherwise proceeding with a decision for the rest of the Official Plan. The legal effect would be to reserve the existing (1994) Official Plan as it pertains to this site. The lands would remain designated for employment purposes in accordance with the in force Plan. However, Council would simply be deferring its decision on the New Official Plan for this site. It is obviously within Council's discretion to determine if and when it proceeds with any decision on an official plan or a part of that official plan.

Yours truly,

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### **Deferral Motion (Bronte Creek Meadows)**

**WHEREAS** the employment designation for these lands under Regional Official Plan Amendment No. 38 remain under appeal;

**AND WHEREAS** the *Grow Bold: Burlington Official Plan* (April 2018) proposes an Area – Specific Study for the lands;

**AND WHEREAS** Council deems it prudent to allow this Study to consider a full range of uses without predetermining what uses or mix of uses may be appropriate for the lands;

**AND WHEREAS** during any deferral the lands will remained designated for employment purposes under the in force (1994) as amended Official Plan;

**THEREFORE** direct the Director of City Building to defer consideration of the proposed *Grow Bold: Burlington Official Plan* (April 2018) for the lands located at 5164, 5366, 5470, 5900 Upper Middle Road and 5201 Mainway (Penta Properties Inc.) to allow for the completion of the Area – Specific Plan to inform the New Official Plan.

### **Clarification Motion (Eagle Heights, North Aldershot)**

Direct the Director of City Building to modify the proposed *Grow Bold: Burlington Official Plan* (April 2018) for the lands at 1640 Flatt Road Extension, 1751 Flatt Road Extension, 1664 Waterdown Road, 66 Horning Road and 0 Flatt Road (Penta Properties Inc.) to:

- i. Include a notation on Schedule M1 recognizing that the NHS on lands within North Aldershot shall be subject to the approved North Aldershot Plan and Schedule K to this Plan; and
- ii. Amend the policies in Section 4.2.2 (h) to reflect the approved North Aldershot Plan designations.

### **Re-Designation Motion**

Direct the Director of City Building to modify the proposed *Grow Bold: Burlington Official Plan* (April 2018) for the lands at 4480 and 4450 Paletta Court (Penta Properties Inc.) to include the subject lands within the Mobility Hub boundary on Schedule C.

### **Re-Designation Motion**

Direct the Director of City Building to modify the proposed *Grow Bold: Burlington Official Plan* (April 2018) for the lands at 4445 Fairview Street (Penta Properties Inc.) to include the subject lands within a “Urban Corridor” designation on Schedule C.