

DocuSigned by:  
*Kelly Yerna* True copy.  
C31B459F7028423...



**DEVRY SMITH FRANK LLP**  
Lawyers & Mediators

*david.white@devrylaw.ca*  
416.446.3330

BY E-MAIL &  
PUROLATOR COURIER

December 18, 2020

Our File No.: NELAG854

REGIONAL MUNICIPALITY OF HALTON  
Office of the Regional Clerk  
1151 Bronte Road  
Oakville, ON L6M 3L1

**RECEIVED**  
DEC 21 2020  
CLERK'S OFFICE  
REGION OF HALTON

Attn: Mr. Graham Milne, Regional Clerk  
E-mail: RegionalClerk@halton.ca

Dear Mr. Milne:

**Re: Notice Of Appeal (the "Appeal")  
City of Burlington (the "City") proposed Official Plan (the "Plan")  
Part Lot 1 and 2, Concession 2 and Part Lot 17 and 18, Concession 2 NDS (the  
"Subject Lands")  
Our Client: Nelson Aggregate Co. ("Nelson")**

Please accept this letter as an appeal by Nelson of the decision of the Region of Halton (the "Region") to approve the Plan, with substantial and numerous modifications, on 30 November 2020.

The Appeal is:

1. specific to the Subject Lands, which include Nelson's existing Burlington Quarry (Part Lot 1 and 2, Concession 2, the "Quarry") and the proposed expansion of the Quarry Part Lot 17 and 18, Concession 2, the "Quarry Expansion", and
2. an appeal of specific sections of the Plan (noted below) that impact the Nelson specifically and the aggregate industry in general.

Nelson made written submissions on the Plan as follows to City staff (27 November 2017), Regional staff (4 November 2020) and City Council (25 November 2020, enclosing the 4 November correspondence). Copies of the 27 November 2017 and the 25 November 2020 (which sets out the rationale for the Appeal) letters are attached hereto as **Tab 1**.

**Background****Quarry Applications****The Quarry**

The Quarry lands are a 218.3 hectare parcel located north of No. 2 Sideroad and west of Guelph Line. It has been in operation since 1953 and has supplied large volumes of high quality aggregate to the Region and surrounding area. The remaining aggregate reserves in the Quarry are running out which has forced Nelson to reduce its extraction and shipping, thus diminishing the supply of local aggregate.

**Quarry Expansion**

To correct this situation, Nelson has made the necessary applications, as set out below, to permit the Quarry Expansion on a 78.3 hectares of land abutting the Quarry to the south and to the west. The southerly parcel consists of 18.3 hectare currently used for the growing of agricultural crops. The westerly parcel consists of 60 hectares and is currently used as a golf course.

**Aggregate Licence Application**

Nelson applied on 14 May 2020 to the Ministry of Natural Resources and Forestry (“MNR”) for a Class “A” Category 2 Aggregate Licence, pursuant to the provisions of the *Aggregate Resources Act* to permit a quarry with extraction below the water table. This application was deemed complete by MNR on 5 October 2020. A complete copy of the application and supporting reports was provided to both the City and the Region on 29 October 2020.

**Planning Act Applications**

On 14 May 2020, Nelson applied for amendments to both the City and Region Official Plans to permit the Quarry Expansion (the “**Planning Applications**”). The Planning Applications were deemed complete by those municipalities on 20 July 2020.

**Niagara Escarpment Plan Application**

Nelson also applied to the Niagara Escarpment Commission (the “**Commission**”) for an amendment to the Niagara Escarpment Plan, requesting that the designation for the Quarry Expansion lands be changed from *Escarpment Rural Area* to *Mineral Resource Extraction Area*. The application to the Commission also includes a site specific policy to be added to the Niagara Escarpment Plan to allow the Quarry facilities to be used for the Quarry Expansion.

**Planning Application Reports and Fees**

A total of 18 expert and technical reports, together with application fees in the amount of \$334,711.00, have been provided to the City, the Region and other commenting agencies in connection with the Planning Applications.

**Joint Agency Review Team**

The Region, the City, the Conservation Authority and the Commission have established the Joint Agency Review Team (“**JART**”) to review applications for new, and the expansion of existing, aggregate operations. JART began its review of the Planning Applications once they were deemed complete in July.

**Plan Process and Nelson Submissions****Chronology of the Burlington Official Plan**

- 26 April 2018: City Council (“**Council**”) adopts an original version of the Plan
- 4 December 2018: the Region advises the City that the Plan does not conform to the Region’s Official Plan with respect to certain issues/mapping, none of which engage the sections of the Plan appealed hereunder
- 7 February 2019: Council votes to re-examine Plan policies with respect to height and density
- 7 October 2020: Council endorses Plan modifications with respect to policies/mapping for the Downtown, Neighbourhood Centres, Mixed Use Nodes and Intensification Corridors
- 26 November 2020: Region releases a draft Notice of Decision with 1,700 modifications (the “**Modifications**”)
- 27 November 2020 Council endorses the Modifications and requests that the Region release the final Notice of Decision
- 30 November 2020 the Region issued the final Notice of Decision approving the Plan (Should we mention Brian’s phone call with the Region)

**Nelson Submissions**

When Nelson was advised that the Region was working on a draft Notice of Decision we wrote the 4 November 2020 letter requesting that the existing Official Plan not be repealed in its entirety and that it continue to apply to the Subject Lands. Nelson had previously been advised that changes to the Plan were limited to modification of the policies regarding the downtown. We requested that we be notified of any proposed changes that would impact the Planning Applications.

No real time was provided between the release of the draft and final Notices of Decision to review and comment on the Modifications. In our letter of 25 November 2020 we identified sections of the Plan that, in our view, required changes to reflect the field work completed on the Subject Lands and to ensure conformity/consistency with Provincial Plans and the Region’s Official Plan.

Notwithstanding those requests, the Region approved the Plan without (a) any transition provisions and (b) addressing the issues raised in our letter.

**The Appeal****Lack of Transition Provisions**

As noted, the Plan does not contain any transition provisions to protect applications currently being processed. It is our understanding that the City intends to repeal its current existing Official Plan in its entirety as a result of the approval of the Plan. As this will have the effect of nullifying the Planning Applications, Nelson is appealing the Plan as it applies to the Subject Lands.

**Appeal of Specific Sections of the Plan**

Nelson is appealing these sections of the Plan (section numbers refer to the track change version of the Plan as presented at the 26 November 2020 meeting of the City's Community Planning, Regulation and Mobility Committee):

- 1) Schedules A, I, I-3, J, M and O-2;
- 2) Section 1.4.4
- 3) Sections 2.1, 2.2.1 c), 2.2.2 d), 2.2.3, 2.3.5, 2.3.6
- 4) Section 3.5
- 5) Sections 4.1, 4.2, 4.4, 4.6, 4.10
- 6) Sections 5.5
- 7) Sections 9.1, 9.2, 9.3, 9.4
- 8) Sections 12.1.1(2) b), 12.1.1 (2.2) c)
- 9) Chapter 13 - the definitions of Cultural Heritage Landscape, , Groundwater Recharge Area, Interim Land Use, Preserve, Prime Agricultural Area, Significant, Significant Wetland, Significant Woodland, Watercourse and regarding the lack of definition of "Greenbelt Area"; and
- 10) Table 1.

Given the size of the Plan and the lack of time to review the Modifications, Nelson will, where appropriate, further scope the Appeal to mineral aggregate operations.

**A1 Form and Fee**

Enclosed with this letter, at **Tab 2**, is the completed LPAT form A1 together with our cheque in the amount of \$1,100.00, representing the requisite appeal fee.

DEVRY SMITH FRANK LLP

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Please acknowledge receipt of this appeal and forward same to the Local Planning Appeal Tribunal.

Yours truly,

DEVRY SMITH FRANK *LLP*

A handwritten signature in black ink, appearing to read 'D. S. White', with a horizontal line underneath the first part of the signature.

David S. White, Q.C.

DSW/MPK/jrg

Encls.

# Tab 1



KITCHENER  
WOODBRIDGE  
LONDON  
KINGSTON  
BARRIE  
BURLINGTON

November 27, 2017

**Ms. Leah Smith**  
**Planning Department**  
**City of Burlington**  
426 Brant Street  
P.O. Box 5013  
Burlington, Ontario  
L7R 3Z6

Dear Ms. Smith:

**RE: Nelson Aggregate Co. – Comments on City of Burlington Draft Official Plan  
OUR FILE 9135C**

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On behalf of Nelson Aggregate Co., thank you for providing a copy of the draft Burlington Official Plan dated November 2017. Based on our review of the Official Plan, Nelson Aggregate Co. has the following comments and suggested revisions to the Official Plan:

- 4.1.2 a) - Should include a policy similar to 4.1.2 a) xii) to support local aggregate production. This change would be consistent with the Provincial Policy Statement (PPS) and conform to the Greenbelt Plan to recognize the importance of close to market aggregates to reduce greenhouse gas emissions.
- 4.10.2(1) c) – Delete. The intent of this policy is unclear and inclusion of this policy contradicts Policy 4.10.2(1) b) and other policies of the Plan.
- 4.10.2(2) b) – Delete “but outside the Niagara Escarpment Development Control Area” since the PPS requires the protection of existing mineral aggregate operations within the Niagara Escarpment Plan and this exclusion is not consistent with Policy 4.10.2(1) g).
- 4.10.2(2) i) iii) - Policy should be revised to read “habitat of endangered and threatened species, except in accordance with Provincial and Federal requirements” to conform to the Regional Plan and NEP and be consistent with the PPS. A similar change should occur to 4.2.2.k) i) c).
- 4.10.2(2) g) & i) – Should be revised so the Plan is not misinterpreted to require an Official Plan Amendment for existing mineral aggregate operations, consistent with Policy 2.5.2.4 of the PPS.
- 4.10.2(2) i) v) – Should not be located in this section and should be revised to be consistent with 110 (8.2) of the Regional Plan which was approved following an OMB hearing. Similar to the Regional Plan, this policy should be included in Section 4.10.2(2) j).

- 4.10.2(2) r) – Should be revised to include “In prime agricultural areas” at the beginning of the policy to be consistent with Policy 2.5.4.1 of the Provincial Policy Statement.

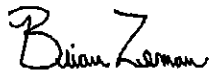
Thank you for consideration of the above comments. We would appreciate an opportunity to meet with the City of Burlington to discuss the suggested revisions prior to approval of the plan.

We have also sent a separate letter requesting a copy of the Notice of Decision to Amber LaPointe, Committee Clerk, City of Burlington, City Hall, 426 Brant Street, P.O. Box 5013, Burlington, Ontario, L7R 3Z6.

If you have any questions, please don't hesitate to call.

Yours truly,

**MHBC**



Brian Zeman, BES, MCIP, RPP  
President

cc. *Quinn Moyer, Nelson Aggregate Co.*  
*Steve Bisson, Nelson Aggregate Co.*  
*David White, Devry Smith Frank LLP*





DEVRY SMITH FRANK LLP  
Lawyers & Mediators

*david.white@devrylaw.ca*  
416.446.3330

BY E-MAIL

November 25, 2020

Ms. Brynn Nheiley  
Manager of Development Planning  
Department of City Building  
City of Burlington  
426 Brant Street P.O. Box 5013,  
Burlington, ON L7R 3Z6  
E-mail: [Brynn.Nheiley@burlington.ca](mailto:Brynn.Nheiley@burlington.ca)

Mr. Dan Tovey  
Manager, Policy Planning  
Planning Services  
Region of Halton  
1151 Bronte Road  
Oakville, ON L6M 3L1  
E-mail: [Dan.Tovey@halton.ca](mailto:Dan.Tovey@halton.ca)

Kevin Arjoon, City Clerk  
City of Burlington  
Clerk's Department  
426 Brant Street P.O. Box 5013,  
Burlington, ON L7R 3Z6  
E-mail: [kevin.arjoon@burlington.ca](mailto:kevin.arjoon@burlington.ca)

Dear Mr. Arjoon:

**Re: City of Burlington (the "City")  
Proposed Official Plan (the "Proposed Plan")  
Nelson Aggregate Co. ("Nelson") Comments**

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We represent Nelson, the owner and operator of the Burlington Quarry (the "**Quarry**").

In April of this year Nelson filed an application (the "**Application**") to amend the in-force City Official Plan (2008) (the "**Current Plan**") to permit the expansion of the Quarry (the "**Expansion**"). The Application was deemed complete by the City on July 20, 2020 (see Attachment A).

Understanding that the Proposed Plan is being reviewed by Halton Region (the "**Region**"), we wrote to the Region on November 4, 2020 to request that the provisions of the Current Plan not be repealed as they apply to the Quarry (see Attachment B). Further to that letter, Nelson's planning firm, MHBC, spoke with staff from the Region and was advised that no significant changes to the aggregate policies were being considered in the modifications made by the Region.

Unfortunately, we now understand that the City intends to repeal the Current Plan in its entirety once the Proposed Plan is approved, as modified, by the Region. There are no transitional provisions in the Proposed Plan to protect the Application.

As the Application has been processed through the Current Plan we determined, through our discussions with the City solicitor, that Nelson would have to file an appeal over the lack of a transitional provision to ensure that the Application remains alive and avoid the procedural issue of Nelson seeking to amend a plan that is no longer in force. Nelson will thus have no choice but to appeal the Proposed Plan as it applies to the following properties:

- 2280 No. 2 Side Road;
- 2292 No. 2 Side Road;
- 2300 No. 2 Side Road;
- 2316 No. 2 Side Road;
- 2330 No. 2 Side Road;
- 5235 Cedar Springs Road; and
- 2433 No. 2 Side Road.

MHBC has reviewed both the Proposed Plan and the Region's proposed modifications to same. As a result of that review, Nelson requests that Regional and City planning consider the following prior to any approval of the Proposed Plan.

1. Schedule A, I, J and M (City System) identify components of the "Green System" or the City's "Natural Heritage System" on 5235 Cedar Springs Road. The Environmental Impact Statement prepared in support of the Expansion however confirms that portions of this property should not be included as part of the City's Natural Heritage System.
2. Schedule I, J and M (Land Use – Rural Area) include 5235 Cedar Springs Road in the "Agricultural Area" and "Agricultural Land Base". This property is not under cultivation. It is rather used as a golf course which was constructed on significantly disturbed on-site soils. The Agricultural Impact Assessment Statement prepared in support of the Expansion confirms that this property should not be included within the "Agricultural Area" and "Agricultural Land Base" designations.
3. Schedule I, Schedule I-3, J, M designates 2473 No. 2 Sideroad, owned by Nelson and adjacent to the southwest corner of the Quarry and the Mt. Nemo Settlement Area Boundary, as "Agricultural Area" outside of the Settlement Area Boundary. It should be included in the Mt. Nemo Settlement Boundary in accordance with Map 3 of the Niagara Escarpment Plan.
4. The Province has defined a natural heritage system that is applicable to the Niagara Escarpment Plan. Schedule M and other schedules should be updated to reflect this.
5. Section 2.2.1(c) and 2.2.3, 2.3.6 should include existing and identified mineral aggregate operations and areas in the Rural Area to be consistent with the Provincial Policy Statement (PPS).

6. Sections 2.2.3 and 9.3 of the Proposed Plan include policies related to the "Provincial Natural Heritage System" and the *Places to Grow Plan (2020)* (the "Growth Plan"). The Proposed Plan should make clear that the Growth Plan policies do not apply in the Niagara Escarpment Plan Area. They only apply outside of the Greenbelt Area, which includes the Niagara Escarpment Plan area.
7. As there is a "Greenbelt Plan Area", the "Greenbelt Area" should be a defined term in Chapter 13, to be consistent with the definition of such an area in the *Greenbelt Act, 2005*.
8. As per the Growth Plan, the Provincial Natural Heritage System cannot be included in the Proposed Plan as it has not yet been incorporated in the Region's Official Plan as part of the municipal comprehensive review that the Region is currently undertaking. The proposed City Natural Heritage System does not conform to the Growth Plan since it was not identified in the Current Plan.
9. To be consistent with the PPS, sections 3.5, 4.10.2(2) e) and other associated sections in the Proposed Plan should reference "significant" cultural heritage resources where the conservation of such resources is required.
10. Subsections 4.10.2(2) i) (iii) and (iv) are inconsistent with the PPS and the Niagara Escarpment Plan Escarpment Rural Area policies: mineral aggregate extraction is permitted within the habitat of endangered and threatened species provided it meets the criteria set out in the *Endangered Species Act*. Extraction is only prohibited within significant woodlands as defined by Province, not any criteria established in the Region and City Official Plans.
11. Section 4.10.2(2) j) (i) d) should also reference subsection 4.10.2(2) s) to make it clear that mineral aggregate operations are permitted within Prime Agricultural Areas to be consistent with Section 2.5.4.1 of the PPS. The PPS states that, in "prime agricultural areas, on prime agricultural land, extraction of mineral aggregates is permitted.....", subject to certain requirements.
12. Given the overlapping, and potentially conflicting, provincial policies that apply to City, section 4.10 should include a notwithstanding clause. This policy would then confirm that it is section 4.10 that applies when evaluating applications for new or expanded mineral aggregate operations in the context of land use compatibility, transportation, natural heritage, agriculture, water resources, and cultural heritage resources.
13. Section 9.1.1 of the Proposed Plan should have, as an objective, the protection and potential future use of identified aggregate resources areas in the Rural Area.
14. The definitions of Cultural Heritage Landscape, Interim Land Use, Sensitive Land Use, Significant, Significant Wetland, Significant Woodland, Groundwater Recharge Area in Chapter 13 should be revised to be consistent with the PPS or other applicable Provincial Plans.
15. Schedule O-2 identifies No. 2 Side Rd. as a "Rural Local" road. Table 1 should identify that a portion of No.2 Side Road is used as an approved truck route for the Quarry.

DEVRY SMITH FRANK LLP

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In conclusion we would ask that the City and the Region:

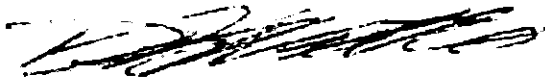
1. not repeal the Current Plan in its entirety, particularly as it applies to the properties identified above,
2. in the alternative, include transitional policies in the Proposed Plan which will protect the status of the Application; and
3. incorporate the modifications requested above in any approval/adoption of the Proposed Plan.

We would be grateful if you would please circulate this correspondence to the members of the City's Community Planning, Regulation and Mobility Committee in advance of the 26 November 2020 meeting and ensure that it forms part of the public record.

If you have any questions or require any additional information regarding the above, please contact myself or Marc Kemerer at Devry Smith Frank LLP.

Thank you in advance for your attention to this matter,

DEVRY SMITH FRANK LLP



David S. White, Q.C.  
DSW/jrg

- cc. Quinn Moyer, Nelson Aggregate Co.  
Marc Kemerer, Devry Smith Frank LLP  
Tecia White, Whitewater Hydrogeology  
Brian Zeman, MHBC  
Ministry of Municipal Affairs and Housing  
Rick Reitmeier, Halton Region  
Blake Hurley, City of Burlington

11 A 11

905 220-4386

Brynn.nheiley@burlington.ca

July 20, 2020

Nelson Aggregate Co.  
2433 No. 2 Sideroad  
P.O. Box 1070  
Burlington, ON  
L7R 4L8

Dear: Quinn Moyer

**SUBJECT:**

**File No's.: 505-04/20**

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Your applications to amend the Official Plan for Part of Lots 1 and 2, Concession 2 and Part of Lots 17 and 18 Concession 2 NDS (former geographic Township of Nelson) City of Burlington Ontario has now been deemed complete. Public and technical circulation of the above applications will commence within the next 30 days.

Burlington's Official Plan policy for a complete development application requires you to identify the property under application with a "Notice" sign. This sign must be posted on the subject property before the application is processed.

The notice sign should be located on the site on private property where it will have maximum exposure to the streets and will not obstruct the vision of motorists or pedestrians. The notice sign will be prepared by the City of Burlington, and you will be contacted by our Sign Shop when it is read to be picked up.

Please send us a letter of confirmation along with a photograph of the notice sign erected on the site, to ensure compliance with Council's policy.

Should you have any questions on the above, or require further information, please call me at (905) 220-4386.

Yours truly,

Brynn Nheiley MCIP, RPP  
Manager – Development Planning

c.c. Brian Zeman, MHBC  
Jamie Tellier, Interim Director of Community Planning  
Joe Nethery, Manager, Community Planning, Halton Region  
Kellie McCormack, Assoc. Director, Planning & Regulations, Conservation Halton  
John Stuart, Senior Strategic Advisor, Niagara Escarpment Commission

"B"



**DEVRY SMITH FRANK LLP**  
Lawyers & Mediators

*marc.kemerer@devrylaw.ca*  
416.446.3329

BY E-MAIL

November 4, 2020

Our File No.: NELAG854

Region of Halton  
1151 Bronte Road  
Oakville, ON L6M 3L1

Attention: Curt Benson, Director of Planning  
E-mail: [curt.benson@halton.ca](mailto:curt.benson@halton.ca)

Dear Mr. Benson:

**Re: City of Burlington (the "City") Official Plan (the "OP") Review  
Nelson Aggregate Co. ("Nelson")  
Burlington Quarry Expansion (the "Expansion")  
Part Lot 1 and 2, Conc. 2 and Part Lot 17 and 18 (the "Subject Lands")**

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We represent Nelson. The purpose of this letter is to ensure that, through the Region's review and approval of the City's adopted OP, the Region does not repeal the provisions of the existing City OP as they apply to the Subject Lands or to policy areas that would affect the Expansion.

By way of background, Nelson filed applications to amend both the Regional and the City's existing Official Plans in April 2020 to permit the Expansion. In the case of the City application, the amendment would re-designate the Subject Lands as Mineral Resource Extraction Area from Escarpment Rural Area. Having been in progress for a number of years, including through significant public consultation, it is crucial for Nelson that the application not be returned to square one through any changes to the OP, including by repealing the OP in its entirety, that would affect the Subject Lands and the processing of the Expansion. This would include changes to the Aggregate/Rural/Agricultural and Natural Heritage policies.

It is out of an abundance of caution that we make this request and further request that we be advised of any (a) changes to the above noted policy areas or the designation for the Subject Lands, and (b) decisions made by the Region with respect to the Official Plan.

We thank you in advance for your attention to these requests. Should you have any questions about them please do not hesitate to contact me.

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95 Barber Greene Rd., Suite 100, Toronto, Ontario, Canada M3C 3E9  
Tel: 416.449.1400 Fax: 416.449.7071 [www.devrylaw.ca](http://www.devrylaw.ca)

DEVRY SMITH FRANK LLP

Page 2

Yours truly,

DEVRY SMITH FRANK LLP

A handwritten signature in black ink, appearing to be 'MK', with a horizontal line underneath.

Marc P. Kemercer  
MPK/jrg

c.c. Quinn Moyer, Nelson Aggregate Co.  
c.c. Brian Zeman, MHBC

# Tab 2





**Ontario Land Tribunals**  
 Local Planning Appeal Tribunal  
 655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca)

## Appellant Form (A1)

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority

### To file an appeal, select one or more below

- Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

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

Subject of Appeal	Type of Appeal	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 checked="" 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 120 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt 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 90 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<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 within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
<b>Site Plan</b>	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
<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	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<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 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<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)	

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

**For matters subject to Bill 139 and the associated transition regulation (the second appeal).**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**1 C. Other Appeal Types (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<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)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<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)
<b>Education Development Charge Complaint</b>	<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)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<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)	
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<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	
<b>Ontario Heritage Act Matters</b>		

Subject of Appeal	Type of Appeal	Reference (Section)
Designation of Property	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
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 Act Matters

Subject of Appeal	Act/Legislation Name	Section Number

## 2. Location Information

Address and/or Legal Description of property subject to the appeal  
Part of Lot 1 and 2, Concession 2 and Part Lot 17 and 18, Concession 2 NDS

Municipality  
City of Burlington

Upper Tier (Example: county, district, region)  
Region of Halton

## 3. Appellant/Objector Information

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT 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)  
NELSON AGGREGATE CO.

Email Address

Daytime Telephone Number  
905-335-5250

ext.

Alternate Telephone Number

### Mailing Address

Unit Number	Street Number	Street Name	PO Box
			1070
City/Town	Province	Country	Postal Code
Burlington	ON	Canada	L7R 4L8

## 4. Representative Information

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

Last Name WHITE / KEMERER		First Name DAVID / MARC	
Company Name DEVRY SMITH FRANK LLP			
Professional Title LAWYERS			
Email Address david.white@devrylaw.ca / marc.kemerer@devrylaw.ca			
Daytime Telephone Number 416-446-3330		Alternate Telephone Number 416-446-3329	

**Mailing Address**

Unit Number 100	Street Number 95	Street Name BARBER GREENE ROAD	PO Box
City/Town TORONTO	Province ON	Country CANADA	Postal Code M3C 3E9

**Note:** If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT'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 Reasons**

Municipal Reference Number(s)

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

PLEASE SEE ATTACHED COVER LETTER.

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:

**Oral/written submissions to council**

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council
- 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

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

**7. Mediation**

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- I have read and understand the above statement.

**8. Witness Information**

Detail the nature and/or expertise of witnesses you will have available.

PLANNING, NATURAL HERITAGE, TRANSPORTATION, AGRICULTURE AND CULTURAL HERITAGE.

**For all other appeal types :**

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

**9. Required Fee**

Total Fee Submitted \$ 1,100

Payment Method ▶  Certified cheque  Money Order  Lawyer's general or trust account cheque

## 10. 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	Signature of Appellant/Representative	Date (yyyy/mm/dd)
MARC KEMERER		2020/12/18

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.