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| **Local Planning Appeal Tribunal** |
| Tribunal d’appel de l’aménagement local |

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| **ISSUE DATE:** | May 08, 2019 | **CASE NO(S).:** | PL170494 |

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| The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal. |

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| **PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended |
| Applicant and Appellant: | River Crest Corporation |
| Subject: | Application to amend Zoning By-law No. 79-200 – Refusal of Application by the City of Niagara Falls |
| Existing Zoning: | Development Holding (DH) zone |
| Proposed Zoning:  | Residential Low Density, Grouped Multiple Dwellings (R4) zone (site specific) |
| Purpose:  | To permit the development of a four storey, 32 unit apartment dwelling and a 19 unit block townhouse development |
| Property Address/Description:  | 2560 Mewburn Road |
| Municipality:  | City of Niagara Falls |
| Municipality File No.:  | AM-2016-019 |
| OMB Case No.:  | PL170494 |
| OMB File No.:  | PL170494 |
| OMB Case Name:  | River Crest Corporation v. Niagara Falls (City) |

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| **Heard:**  | April 26, 2019 by telephone conference call |

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| **APPEARANCES:** |  |
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| **Parties** | **Counsel** |
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| River Crest Corporation | T. Hanrahan |
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| City of Niagara Falls | T. Halinski |

MEMORANDUM OF ORAL DECISION DELIVERED BY C.J. BRYSON ON APRIL 26, 2019 AND ORDER OF THE TRIBUNAL

1. This hearing took place in follow-up to the Decision of the Tribunal of February 20, 2018, in which the Appeal of River Crest Corporation from the City of Niagara Falls’ refusal to approve its application for a zoning by-law amendment to permit a residential development at 2560 Mewburn Road was allowed. At that time, the Parties requested the Tribunal withhold its final order on the Appeal pending finalization of the site and condominium plans for the development.
2. At this telephone conference call (“TCC”), the Parties jointly requested the Tribunal issue a final order on the Appeal. They informed the Tribunal that the site plan was close to finalization but that neither the site plan nor the condominium plan could be finalized without a final order on the zoning by-law amendment Appeal. The site plan would now be approved upon receiving the final order of the Tribunal and the condominium plan would be finalized once the project was constructed.
3. In support of the request for a final order on the Appeal, the Parties provided the Tribunal with the Affidavit of Leigh Whyte, which was marked as Exhibit 1 and supports the submissions of the Parties that it constitutes good planning to approve the amendment while awaiting final approval of the site and condominium plans. The Tribunal accepted the qualifications of Mr. Whyte for purposes of providing the Tribunal with expert land use planning opinion evidence. The Parties requested the Tribunal approve the final draft zoning amendment by-law found at Exhibit B to the Affidavit of Mr. Whyte, which is attached to this Decision as Attachment 1, and to dispose of the Appeal on this basis.
4. Against this background, the Tribunal ordered the Appeal be allowed in part and that the City of Niagara Falls Zoning By-law No. 79-200 be amended per Attachment 1 to this Decision and Order.

 “C.J. Bryson”

C.J. BRYSON

MEMBER

If there is an attachment referred to in this document,

please visit www.elto.gov.on.ca to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248