

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: December 14, 2018

CASE NO(S):

PL180376

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.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: 5507 River Development Inc.
Subject: Request to amend the Official Plan – Failure of the City of Niagara Falls to adopt the requested amendment
Existing Designation: Residential and Special Policy Area
Proposed Designation: Special Policy Area
Purpose: To permit a 390 unit apartment building, with a 21 storey and a 12 storey tower and underground parking
Property Address/Description: 5471, 5491, and 5507 River Road and 4399, 4407, 4413, and 4427 John Street
Municipality: City of Niagara Falls
Approval Authority File No.: AM-2017-011
LPAT Case No.: PL180376
LPAT File No.: PL180376
LPAT Case Name: 5507 River Development Inc. v. Niagara Falls (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 5507 River Development Inc.
Subject: Application to amend Zoning By-law No. 79-200 – Refusal or neglect of City of Niagara Falls to make a decision
Existing Zoning: Residential Apartment 5E Density (R5E-840), in part, Parking (P-841), in part, and Residential Single Family and Two Family (R2-2), in part
Proposed Zoning: Residential Apartment 5F Density (site specific)

Purpose: To permit a 390 unit apartment building, with a 21 storey and a 12 storey tower and underground parking

Property Address/Description: 5471, 5491 and 5507 River Road and 4399, 4407, 4413, and 4427 John Street

Municipality: City of Niagara Falls

Municipality File No.: AM-2017-011

LPAT Case No.: PL180376

LPAT File No.: PL180377

Heard: October 30, 2018 in Niagara Falls, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel/Representative*</u>
5507 River Development Inc.	D. Artenosi
City of Niagara Falls	T. Halinski
Niagara Parks Commission	N. Arbabi and S. Turney
Kenneth Westhues	Self-represented*

MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON OCTOBER 30, 2018 AND ORDER OF THE TRIBUNAL

[1] In July 2017, 5507 River Development Inc. (“Appellant”) applied for Official Plan and Zoning By-law amendments to facilitate the development of lands located 5471, 5491, and 5507 River Road and 4399, 4407, 4413 and 4427 John Street (“subject lands”)

[2] On March 29, 2018, the Appellant appealed the City of Niagara Falls’ refusal or neglect to make decisions on these applications pursuant to s. 22(7) and 34(11) of the *Planning Act*.

[3] This was the first pre-hearing conference (“PHC”) in this proceeding. At the PHC, the Appellant stated that it is considering revisions to the development proposal

and that the Parties wish to engage in settlement discussions. The Parties stated that Tribunal-facilitated mediation is not needed at this time and requested that a further PHC be scheduled to allow time for settlement discussions.

[4] The Niagara Parks Commission (“Commission”), which owns and controls lands adjacent to the subject lands, requested party status. Its request was not opposed. The Tribunal granted the Commission’s request.

[5] Kenneth Westhues, who lives in the vicinity of the subject lands, also requested party status. He outlined height, density, environmental, and geologic issues regarding the proposed development. He also raised issues regarding the approval process at City Council. The Appellant and the Commission did not oppose Mr. Westhues’ request. The Tribunal granted him party status.

[6] The following persons who live in the vicinity of the subject lands and/or have concerns regarding the proposed development requested participant status:

- John Pinter
- Dianne Munro
- Debra Jackson Jones
- Gordon and Jeanette Kirkpatrick
- Angela Peebles
- Ken and Janice Crossman
- Linda Manson
- Pat Sirianni
- James McGarry

[7] None of the Parties objected to the requests for participant status. The Tribunal granted each of them Participant status. It requested that they work together to coordinate their presentations at the hearing to help facilitate a fair and efficient process.

[8] The Tribunal directed that a second PHC will be held in Niagara Falls on **Thursday, April 18, 2019** commencing at **10 a.m.** to address scheduling and other procedural matters, including further requests for party and participant status and the finalization of an issues list and draft Procedural Order. The next PHC will be held at:

**Municipal Building
Council Chambers
4310 Queen Street
Niagara Falls, ON**

[9] The Tribunal directed that the Parties serve draft issues lists on one another by **Monday, March 18, 2019** and file a draft Procedural Order with the Tribunal no later than **Thursday, April 11, 2019**.

[10] This Member of the Tribunal is not seized.

[11] No further notice will be given.

“Hugh S. Wilkins”

HUGH S. WILKINS
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 Environment and Land Tribunals Ontario

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