

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



ISSUE DATE: May 06, 2019

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, & 5507 River Rd, 4399, 4407, 4413, & 4427 John St
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-

Proposed Zoning: 2), in part
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, & 5507 River Rd, 4399, 4407, 4413, & 4427 John St

Municipality: City of Niagara Falls

Municipality File No.: AM-2017-011

LPAT Case No.: PL180376

LPAT File No.: PL180377

Heard: April 18, 2019 by telephone conference call

APPEARANCES:

Parties

Counsel/Representative*

5507 River Development Inc.

Jessica Wang* and Jennifer Stam

City of Niagara Falls

Tom Halinski

Niagara Parks Commission

Sarah Turney

Kenneth Westhues

Self-represented*

MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON APRIL 18, 2019 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 second Pre-hearing Conference (“PHC”) in this proceeding. At the

PHC, the Tribunal was informed that in November 2018 the Appellant filed for protection under the *Companies' Creditors Arrangement Act* ("CCAA") and that the sale of the subject lands has been approved by the CCAA Court. Jennifer Stam, who is the insolvency and restructuring counsel for the Appellant, David Sieradzki representing the Monitor in the CCAA proceeding, and Stephen Aghaei representing the intended purchaser of the subject lands attended the TCC. They confirmed this state of affairs. Mr. Sieradzki stated that the sale of the subject lands is scheduled to close on April 30, 2019. Mr. Aghaei stated that the intended purchaser has not yet finalized its plans for the lands.

[4] The Tribunal directed that the PHC be adjourned to a further TCC in late May at which time the Parties can provide a more complete update on the status of the appeal and further procedural steps can be properly determined.

[5] Debra Jackson Jones, who is a Participant, stated that a newly formed community group, named Citizens for Responsible Development, would like to seek Party status in the proceeding. However, she stated that the representatives of the group were not present during the TCC. The Tribunal asked that a representative of the group send information regarding its interest in the appeals and confirming its corporate status to the Tribunal Case Coordinator and to the Parties. The request for status may then be formally made by an authorized representative of the group at the next PHC.

[6] Rita Vetere who lives in the vicinity of the subject lands requested Participant status in the proceeding. She has concerns regarding the height and appropriateness of the proposed development. None of the parties opposed the request and the Tribunal granted Ms. Vetere status as a Participant.

ORDER

[7] The Tribunal directs that the next PHC will be held by TCC on **Monday, May 27, 2019 at 10 a.m.** at which the Parties will provide the Tribunal with a further update on the status of the appeal, requests for status may be heard and any motions brought by

the Parties may be addressed. Individual(s) are directed to call 416-212-8012 or Toll Free 1-866-633-0848 on the assigned date at the correct time. When prompted, enter the code 1006967# to be connected to the call. If assistance is required at any time, press '0' for the operator. It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to Tamara Zwarycz, the Tribunal's Case Coordinator, at 416-326-6790.

[8] The Tribunal orders that Rita Vetere is a Participant in this proceeding.

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

[10] 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 Tribunals Ontario – Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248