

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



**ISSUE DATE:** May 21, 2019

**CASE NO(S):** PL180727

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 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	John Bacher
Subject:	Proposed Official Plan Amendment No. OPA 128
Municipality:	City of Niagara Falls
LPAT Case No.:	PL180727
LPAT File No.:	PL180727
LPAT Case Name:	Bacher v. Niagara Falls (City)

**Heard:** March 6, 2019 in Niagara Falls, Ontario, and May 14, 2019 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

John Bacher

Self-represented

City of Niagara Falls

Chris Barnett\*

GR (Can) Investment Co. Ltd.

N. Jane Pepino\* and Maggie Bassani\*

**MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT ON  
MARCH 6 AND MAY 14, 2019 AND ORDER OF THE TRIBUNAL**

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## INTRODUCTION

[1] John Bacher has appealed the adoption of Official Plan Amendment 128 (“OPA 128”) which amends existing Special Policy Area 56 provisions by adding new community plan policies to provide a comprehensive framework to guide the future *Planning Act* applications necessary to permit the development 48.8 hectares of a total holding of 195 hectares adjacent to Dorchester Road and Chippawa Parkway in the City of Niagara Falls (“City”).

[2] The Appellant, Mr. Bacher, challenges the decision of Council and asserts that the policies of OPA 128 as adopted are not consistent with Policies 2.1.4(a), 2.1.5(b), 2.1.5(d) and 2.1.7 of the Provincial Policy Statement, 2014.

[3] The request for party status by the Applicant, GR (CAN) Investment Co. Ltd. was granted on consent.

[4] Counsel for the City had provided and circulated a working agenda for the Case Management Conference (“CMC”) mirroring the requirements of the Tribunal’s *Rules of Practice and Procedure* (“Tribunal Rules”). Mr. Bacher had requested an adjournment for 30 days to seek the advice of Counsel on the list of potential areas of agreement drafted pursuant to the Tribunal’s Rule 26.20(c). In lieu of an adjournment, Mr. Bacher was given 30 days to consider and respond to the Tribunal. Despite having been granted the time to reconcile an understanding of the statements (a) through (i) as drafted by the City, the Appellant responded by submitting his intent to rebut all but statement (a) of the proposed statements of fact, the elaboration of which being the Appellant’s argument, to be received in the written hearing directed by the Tribunal as set out in paragraphs [6] and [7] below.

[5] Mr. Bacher has confirmed to the Tribunal that he elects to continue as a self-represented Appellant.

[6] There was no issue as between the Parties with respect to the four issues to be

determined, as set out in Attachment 1.

[7] It was also further agreed and determined that the hearing would be in writing.

[8] The Tribunal directed at the telephone conference call conducted May 14, 2019, that written argument was to be filed by the Appellant no later than **Monday, July 15, 2019**. Responding material to be filed no later than **Monday, July 22, 2019** and final Reply if any, no later than **Monday, July 29, 2019**. The submissions are not to exceed 25 pages double spaced in accordance with the Tribunal's Rules, and are to be exchanged with the Parties and filed with the Tribunal on or before the dates stipulated.

[9] The Tribunal reiterates as it did at the CMC in March, that all submissions are to be based on the documents forming the formal record on the appeal. In accordance with the *Local Planning Appeal Tribunal Act*, no new evidence is to be introduced through the submissions.

[10] The Member is seized of the matter.

## **ORDER**

[11] That the Appeal be determined through written hearing as prescribed in this disposition.

*"Sharyn Vincent"*

SHARYN VINCENT  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

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## ATTACHMENT 1

### ISSUES LIST

- i. Is the proposed OPA 128 consistent with section 2.1.4 (a) of the provincial Policy Statement, 2014? (Significant Wetlands);
- ii. Is the proposed OPA 128 consistent with section 2.1.5 (b) of the Provincial Policy Statement, 2014? (Significant Woodlands);
- iii. Is the proposed OPA 128 consistent with section 2.1.5 (d) of the Provincial Policy Statement, 2014 (Significant Wildlife Habitat):
- iv. Is the proposed OPA 128 consistent with section 2.1.7 of the Provincial Policy Statement, 2014 (Habitat of Endangered and Threatened Species).