

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: September 24, 2021

CASE NO(S): PL200464

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

Applicant and Appellant: Go-To Niagara Falls Chippawa Inc.
Subject: Application amend Zoning By-law No. 79-200 - Refusal of Application by the City of Niagara Falls Residential Low Density, Grouped Multiple Dwellings (R4-324), in part, and Neighbourhood Commercial (NC-397), in part as amended by By-law No. 1996-56

Existing Zoning: Residential Low Density, Grouped Multiple Dwellings (R4-324), in part, and Neighbourhood Commercial (NC-397), in part as amended by By-law No. 1996-56

Proposed Zoning: Site Specific Residential Apartment 5B Density (R5B)

Purpose: To permit the construction of a 4 storey, 77-unit apartment building

Property Address/Description: 4210 Lyon's Creek Road
Municipality: City of Niagara Falls
Municipality File No.: AM-2018-011
OLT Case No.: PL200464
OLT File No.: PL200464
OLT Case Name: Go-To Niagara Falls Chippawa Inc. v. Niagara Falls (City)

Heard: September 22, 2021 by video hearing

APPEARANCES:

Parties

Counsel*/Representative

Go-To Niagara Falls Chippawa Inc. ("Applicant")

J. Meader*

City of Niagara Falls ("City")

P. Maloney*

Paul Krowchuk

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON
SEPTEMBER 22, 2021 AND ORDER OF THE TRIBUNAL**

[1] The Applicant had originally filed a development proposal for the lands known municipally as 4210 Lyon's Creek Road ("Subject Lands") seeking approval of an Official Plan Amendment ("OPA") and a Zoning By-law Amendment ("ZBA") to enable the construction of a 6 storey residential building with 122 units, and 9 town house units.

[2] That development proposal was subsequently revised to a 4 storey building with 77 units.

[3] City Planning Staff recommended approval to City Council, which did not accept the staff recommendation and denied the revised application.

[4] The Applicant appealed to the Tribunal.

[5] In the lead up to the hearing, the parties were able to come to terms on a further revised application for a 4 storey building that stepped down to 3 storeys with 63 units, and 6 townhouses.

[6] At the settlement hearing the Tribunal had the affidavit of the Applicant's land use planner in support of the settlement, and which included the executed Minutes of Settlement, and the revised draft ZBA. The Tribunal heard *viva voce* evidence from the land use planner and submissions from all the parties.

[7] The Tribunal allowed the appeal in part, approved the ZBA as found in Exhibit 1 Tab D, and directed that the Applicant's site plan application shall be in general conformity with the conceptual site plan found within the Minutes of Settlement at Exhibit 1 Tab B, all for the reasons set out below.

DECISION

[8] The Subject Lands are comprised of two parcels and total 1.08 hectares in area

with about 90 metres (“m”) of frontage onto Lyon’s Creek Road and about 210 m along Sodom Road (both are Regional roads).

[9] To the west and south of the Subject Lands are detached dwellings. To the east is a place of worship, and more detached dwellings. North of the Subject Lands is the Welland River and a boat ramp and parkette.

[10] The Regional Official Plan designates the Subject Lands as being within the Urban Area and the Built-up Area.

[11] The City’s Official Plan designates the Subject Lands as Residential and allows apartments with heights up to 4 storeys and a maximum density of 75 units per hectare.

[12] While the original application required an OPA for height and density, the settlement proposal conforms to the City Official Plan for height and density, and only a ZBA is sought.

[13] When City Planning Staff reported to City Council on the revised development proposal at 4 storeys and 77 units, there were no objections or concerns raised by any commenting agency or department, including the Fire Department, the Region, and City departments.

[14] With the denial by City Council and the appeal to the Tribunal, in the lead up to the hearing the parties were able to resolve their outstanding issues and Minutes of Settlement were entered into based on a further revised development proposal with a 4 storey building, stepping down to 3 storeys (63 units), and with 6 townhouse units.

[15] The Tribunal had at the hearing the land use planning affidavit of Mike Crough (Exhibit 1), and also heard his *viva voce* evidence.

[16] Having read all the participant statements, The Tribunal questioned Mr. Crough on concerns raised by the participants including matters of fire protection, traffic,

compatibility, infrastructure, and matters relating to the site plan. The Tribunal then heard submissions from the parties recommending approval of the proposed settlement.

[17] In coming to its decision, the Tribunal has had regard for the decision of City Council in this matter as required by s. 2.1 of the *Planning Act* (“PA”), as found in the direction from City Council (Exhibit 2) and the Minutes of Settlement (Exhibit 1 Tab B).

[18] The Tribunal is satisfied that the settlement proposal has had appropriate regard for the matters of Provincial Interest in s. 2 of the PA.

[19] The Tribunal finds the settlement proposal to be a form of intensification in a settlement area that is predominantly detached residential and introduces an apartment building at a modest 4 storey height that steps down first to 3 storeys and then the settlement proposal introduces 6 townhouse units. These different forms of housing add to the existing range and mix of housing in the City, which the Tribunal finds to be consistent with the Provincial Policy Statement 2020 (“PPS”).

[20] The Tribunal finds that the settlement proposal conforms to A Place to Grow: the Growth Plan for the Greater Golden Horseshoe 2020 (“Growth Plan”) as a form of intensification within a Built-up area, and also conforms to both the Regional Official Plan and the City Official Plan.

[21] The Tribunal is satisfied that the settlement proposal represents good land use planning and is in the public interest.

[22] Accordingly, the Tribunal will:

- a. Allow the appeal in part;
- b. Approve the ZBA as found in Exhibit 1 Tab D; and
- c. Direct that the site plan application shall be in general conformity with the

conceptual site plan found in the Minutes of Settlement as set out in Exhibit 1 Tab B.

[23] The Tribunal expressly notes that the development proposal requires a further approval through the site plan process where such matters as landscaping, fencing, and access will be dealt with.

[24] Finally, the Tribunal congratulates the parties for their efforts to resolve this matter and avoiding a lengthy, and costly hearing.

[25] This is the Order of the Tribunal.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

Ontario Land Tribunal

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