

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

ONTARIO Planning JOURNAL

MARCH/APRIL 2010, VOL. 25, NO. 2

ONTARIO PLANNERS: VISION • LEADERSHIP • GREAT COMMUNITIES

Waterfront Regeneration

Two decades of progress

Also in this issue: Waterfront
Regeneration Trust • Planning for
Employment • Intensification
Targets • Surplus Dwelling
Severances • Solastalgia • CSI
Miami • OMB's Executive Chair •
Value Capture • Conservation
Districts • Caution to Planners •
Wrestling with Moses



Ontario
Professional
Planners
Institute

Institut des
planificateurs
professionnels
de l'Ontario

Ontario Planners: Vision • Leadership • Great Communities

ONTARIO PLANNING JOURNAL

Volume 25, Issue No.2, 2010

ONTARIO PROFESSIONAL PLANNERS INSTITUTE
The Ontario Affiliate of the
Canadian Institute of Planners

**INSTITUT DES PLANIFICATEURS
PROFESSIONNELS
DE L'ONTARIO**
L'Association affiliée ontarienne
de l'Institut canadien des urbanistes



ONTARIO PLANNERS:

VISION · LEADERSHIP · GREAT COMMUNITIES

Editor

Glenn Miller, FCIP, RPP

Deputy Editor

Philippa Campsie

Photographic Editor

Michael Manett, MCIP, RPP

Contributing Editors

Communication, Philippa Campsie

Climate Change, Beate Bowton, FCIP, RPP

Environment, Steve Rowe, MCIP, RPP

Heritage, Michael Seaman, MCIP, RPP

In Print, David Aston, MCIP, RPP

Legislative News, Noel Bates

Management, John Farrow, MCIP, RPP

The OMB, Eric Gillespie

Planning Futures, Paul Bedford, FCIP, RPP

Provincial News, Marcia Wallace, MCIP, RPP

Urban Design, Anne McIlroy, MCIP, RPP,

and Alex Taranu, MCIP, RPP

Transportation, Dennis Kar, MCIP, RPP

Sustainability, Carla Guerrero, MCIP, RPP

District Editors

Nancy Farrer, MCIP, RPP, *Lakeland*
nfarrer@collingwood.ca

Alissa Mahood, MCIP, RPP, *Western Lake
Ontario*, amahood@hamilton.ca

Damian Szybalski, MCIP, RPP, *Western Lake
Ontario*, damian@urbanjazz.ca

TBA, *Toronto*

Benjamin Puzanov, *Southwest*

puzanov@middlesexcentre.on.ca

Rosa D'Amico, MCIP, RPP, *Oak Ridges*

rosa.damico@york.ca

Wendy Kaufman, *Northern*

wendy_kaufman@yahoo.com

Art Director

Brian Smith

Subscription and Advertising Rates

Please visit the OPPI website at
<http://www.ontarioplanners.on.ca>
and click on **Publications**, then the **Journal**.

How to Reach Us

To reach the Journal by e-mail:
editor@ontarioplanning.com

To reach OPPI by e-mail:
info@ontarioplanners.on.ca

Visit the OPPI website:

www.ontarioplanners.on.ca

The Journal is published six times a year by the Ontario
Professional Planners Institute.

ISSN 0840-786X

IN THIS ISSUE

Interview / 3

Pam Sweet p.3

Features / 4

Waterfront Regeneration Trust p.4

Planning for employment..... p.6

Intensification targets p.7

Surplus dwelling severances p.8

Districts & People / 10

Eastern p.10

Oak Ridges p.11

Lakeland p.13

People..... p.13

OPPI Notebook / 14

George McKibbin on Solastalgia p.14

Paul Stagl Leaves p.15

Toronto District Report p.16

Commentary / 17

Editorial p.17

Opinion p.18

Departments / 19

Planning Futures p.19

Ontario Municipal Board p.20

Transportation p.22

Heritage p.23

Law and Order p.24

In Print / 27

Wrestling with Moses p.27

BILLBOARD

CONTINUOUS PROFESSIONAL LEARNING

OPPI offers a dynamic package of educational opportunities to build members' skills and keep them up to date on key planning issues. All members are encouraged to include Professional Development Courses as part of their ongoing commitment to continuing education.

Upcoming courses for 2010 include:

Project Management for Planners

Planner as a Facilitator

Presentation Skills for Planners

Plain Language for Planners

Planner at the OMB

Urban Design for Planners

Further information, including registration forms and the option to hold these courses in your work-place, is available at: <http://www.ontarioplanners.on.ca/content/CPL/index.aspx>

OCTOBER 28 & 29, 2010

OPPI 2010 SYMPOSIUM: HEALTHY COMMUNITIES AND PLANNING FOR FOOD—A HARVEST OF IDEAS

Come and join planners from across the province for this two-day event to explore and discuss planning for food.

The symposium will examine the many issues associated with the production, processing and distribution of food and how all of this

For more information about events,
check the OPPI web site at
www.ontarioplanners.on.ca,
and the latest issue of Members Update,
sent to you by e-mail.

relates to the planning profession and other key stakeholders interested in fostering healthy and sustainable communities.

The Symposium Committee is pleased to announce that Anna Maria Tremonti from CBC radio will be one of the featured speakers. Ms. Tremonti is a noted broadcaster and journalist.

Watch the OPPI website and e-newsletter for more information in future months.

DISTRICT EVENTS

There are a number of District events taking place over the coming weeks. Stay current on planning issues and take the opportunity to network with planners in your District. For more information, please go to: <http://www.ontarioplanners.on.ca/content/Events/eventsearch.aspx>



Pam Sweet

Making a difference

From planning for melting permafrost to dealing with fractious public meetings—all in a day's work for Pamela Sweet

Ontario Planning Journal editor Glenn Miller interviewed Ottawa-based planning consultant Pamela Sweet to find out what motivates the former president of the Canadian Institute of Planners after three decades as a professional planner

Miller: You made the switch from municipal planning to consulting in 2001. What prompted the change?

Sweet: I had been working in the public sector all of my career, and when Ottawa-Carleton underwent amalgamation, the opportunity to join FoTenn seemed too good an opportunity to pass up. I wanted to do some different things, and building a consulting practice has given me a chance to expand my horizons as a planner.

M: Your firm has received awards for a wide variety of planning work at many different scales, working with stakeholders as varied as the federal government and community leaders in the far north. What is the secret to maintaining credibility with the public?

S: I believe passionately that planners should “practise what we preach,” whether it’s passing on the benefit of our experience to young planners or making presentations to municipal councils. Take the example of recommending mixed-use development to a skeptical community group. Not everyone finds the idea appealing. I grew up in an apartment over my family’s general store, so I’m more than comfortable with the notion of main street living.

M: You have played a key role in moving Ottawa’s plans for light rail transit forward and promoting core revitalization. How receptive is the public to these ideas?

S: The viewpoints vary considerably across the city. Our office is in downtown, so many of our staff walk to work and advocate an inner-city life style. This approach is not uncommon in “urban” Ottawa, but infill and intensification is not always an easy sell. Residents in the more suburban and rural parts of the amalgamated city have a very different lifestyle and those differences need to be appreciated.

M: You are a director of the board of Ottawa International Airport. You are also a trustee of the Ottawa Public Library Board and an advocate for literacy. How did you decide to run for this position?

S: As a child, I was a voracious reader in a small community that didn’t have the best access to books. I’m not sure if there is a direct connection, but my parents helped create a community library in my hometown. So getting involved with the library board seemed like a natural progression. We are currently in the process of assembling a site for an ambitious multi-purpose project that will include a new library. If it works out, it will also be a model of transit-friendly development!

M: When you were elected to the College of Fellows in 2001, the description of your contributions to planning emphasized your commitment to mentoring planners starting out in their careers. What fuelled this interest in developing people?

S: I think it dates back to even before I served as CIP president in the mid-1980s. I have benefited from some wonderful mentors over many years—people like Nick Tunnacliffe, who hired me at the Region—and I believe in continuing that tradition. In a small private firm, for example, holding on to excellent young planners who also want to start a family can be a challenge when we are not able to match benefits available in the public sector—it requires creativity and flexibility, but it’s worth it.

M: You have often cited planning studies you have done for the City of Iqaluit as one of the highlights of your career. What makes working in the Arctic so rewarding?

S: Where else can you meet so many amazing individuals willing to put so much into improving their communities? Talking about climate change seems more real in places like Iqaluit when the evidence is right in front of you. I wish that everyone could have the same opportunity.

Pamela Sweet, FCIP, RPP, is vice president of FoTenn Consultants in Ottawa. Glenn Miller, FCIP, RPP, is vice president, education and research with the Canadian Urban Institute and editor of the Ontario Planning Journal.

Career path

Pamela Sweet, FCIP, RPP, is Vice President of FoTenn. She was previously Director of Policy and Infrastructure Planning with the Region of Ottawa-Carleton, and also served as Director of Planning, Cumberland Township. She has worked for the City of Gloucester and the Ontario Ministry of Housing. Pam served as President of the Canadian Institute of Planners in 1984-85 and was made a Fellow in 2001. She currently serves on the boards of the Ottawa Public Library and Ottawa International Airport.



Cover Story

Making a difference on the Lake Ontario and St. Lawrence River waterfronts

Two Decades of Regeneration

Suzanne Barrett and Marlaine Koehler

OVER THE PAST TWO DECADES, communities around the Canadian shore of Lake Ontario and the St. Lawrence River have been working hard to revitalize their waterfronts and connect them with a 730-km Waterfront Trail. What's been accomplished so far? What challenges remain ahead?

Today, it is hard to remember the times when so many waterfront communities turned their backs on the waterfront, ignoring the polluted remnants of industrial activities, shipping and railways that lingered there. Natural places like wetlands were degraded and threatened by encroaching human activities. Cultural heritage was often overlooked or demolished to make way for new development, and waterfront access was frequently hazardous and unappealing.

So much has changed since then. One of the main catalysts was the Royal Commission on the Future of Toronto's Waterfront, headed by the Hon. David Crombie from 1988 to 1992. The Commission provided an opportunity for the public to express their hopes and dreams for a publicly accessible, clean, green and healthy waterfront. The seed of a continuous Waterfront Trail was sown, and enthusiasm quickly grew beyond Toronto to encompass the entire Canadian Lake Ontario shoreline. The recommendations of the Royal Commission were picked up by an extraordinary partnership comprising waterfront municipalities, conservation authorities, provincial and federal agencies, service clubs, heritage groups, chambers of commerce and NGOs, coordinated by the Waterfront Regeneration Trust (WRT).

The First Decade

In 2000, the WRT published *A Decade of Regeneration* to record and celebrate work accomplished during the first 10 years of this partnership. It showed that the 32 communities along the Canadian shore of Lake Ontario shared a vision of a regenerated and connected waterfront, expressed in the Lake Ontario Greenway Strategy published in 1995. Over 100 projects along the waterfront—ranging from parks to housing, restaurants, beaches, wetlands, historic buildings and marinas—were demonstrating the benefits of integrating economic revitalization, community renewal and environmental regeneration in the context of a strong vision and good planning. The Waterfront Trail was recognized as a valuable asset, with some 350 km of trail in place. And new developments were increasingly showing a commitment to design excellence, public access and respect for waterfront natural and cultural heritage.

The Second Decade

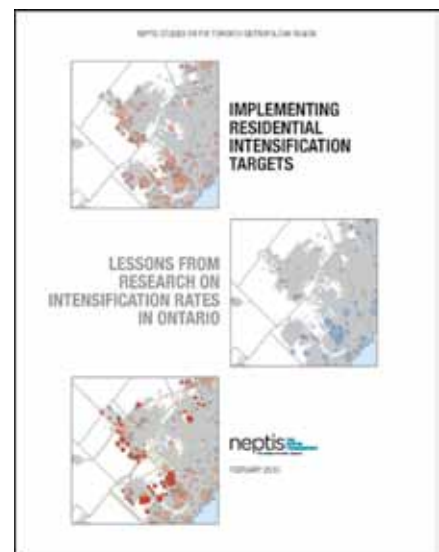
During the second decade, the WRT and its partners continued to build on these successes, focusing their efforts on maintaining capital investment, creating a consistent identity for the Waterfront Trail, and promoting its benefits to the public. In 2003 the waterfront collaboration bore significant fruit in the form of a \$9.2-million contribution from the Canada-Ontario Infrastructure Program. This funding was dedicated to 52 projects along the Waterfront Trail and Greenway involving 28 principal funding partners who invested an

neptis THE NEPTIS FOUNDATION
The design of urban regions

IMPLEMENTING RESIDENTIAL INTENSIFICATION TARGETS: LESSONS FROM RESEARCH ON INTENSIFICATION RATES IN ONTARIO

The latest research report from the Neptis Foundation describes how the Province of Ontario's intensification target in the Growth Plan for the Greater Golden Horseshoe (GGH) works both in principle and practice. The report provides historical rates of intensification (1991-2006) for all municipalities in the GGH. It takes a closer look at the concept of defining the urbanized boundary for the purposes of implementing and measuring the intensification target.

For more information on the report, please contact Marcy Burchfield, Geomatics/Research Program Manager at the Neptis Foundation (mburchfield@neptis.org or 416-972-9199 ext 2). To download or order a copy of the report, please visit www.neptis.org.



additional \$22 million on the waterfront. The critical premise behind this approach was the understanding that each local project, large or small, would add something to a bigger, bolder vision with provincial impact and benefits.

As a result of this investment, 730 km of signed Waterfront Trail extend from Niagara to Quebec, with a wide range of complementary assets, including waterfront promenades, parks and marinas, cultural heritage projects, and natural heritage restoration and interpretation. The value of the Trail now extends beyond Ontario, and in 2006 the Waterfront Trust partnered with Velo Quebec to create a seamless connection with La Route Verte.

Whereas during the first decade, considerable effort was devoted by the WRT and its partners to greenway and trail planning, design and implementation, the second decade saw increasing emphasis on marketing these assets. This in turn helped to build support for continued public and private investment on the waterfront. It was also recognized that bringing people back to the shoreline would help to increase their awareness of the need for revitalization and encourage them to exercise their influence on waterfront planning and policy decisions.

Promotional activities undertaken by the WRT, in collaboration with its partners, included an informative and engaging website (www.waterfronttrail.org), publication of a map book and various brochures and mini-guides, and the Great Waterfront Trail Adventure, which was initiated in 2008 and has already become a much-anticipated annual event for cycling enthusiasts and families.

The GWTA is designed to offer an enjoyable and convenient way for cyclists of all fitness levels to travel from Niagara to Quebec on the Trail. It attracts 250+ participants annually, ranging from nine to 77 years in age. Significantly, in the first two years, over 50% of the participants made the GWTA their first-ever cycling holiday. Most (83%) came from southern Ontario, but the rest came from further afield: six other provinces and five states. At the end of their journey, 92% of participants reported they will take other cycling trips, 83% will revisit communities on the Trail, and 55% intend to use the Trail for commuting.

The Third Decade

Entering the third decade, it is clear that waterfront communities do not intend to rest on the laurels of the past 20 years. Instead they continue to seize opportunities to improve the waterfront experience, as we will see with 12 new trail projects being unveiled in 2010. Highlights include a remarkable pedestrian bridge over a major freeway in Hamilton to connect under-served neighbourhoods to the

waterfront, a western gateway into Pickering's Waterfront Trail, Lakefront West Park in Oshawa, and at long last, the closure of a 25-km gap in the route in the Scarborough portion of Toronto.

The desire for change is being re-energized by current concerns about human health, climate change and the economy. Revitalized waterfronts respond to all three of these challenges in an integrated way. For example, the alarming rate of childhood obesity, well documented by the Heart and Stroke Foundation, prompts a call to redesign our communities to promote active lifestyles. Green transportation alternatives and healthier, more resilient ecosystems are key elements in any strategy to address climate change. And the tourism and business opportunities afforded by beautiful, diverse waterfronts can play an important part in economic recovery. Recognizing these imperatives, many waterfront communities are planning bold moves. Here are just two examples.



PHOTO: JAN LOBB

Great Waterfront Trail Adventure: leaving Fort York, Toronto

Edwardsburgh/Cardinal is a small community on the shores of the St. Lawrence River with a bold waterfront vision

rooted in its rich heritage. Settled by United Empire Loyalists, some of the township's heritage sites include the Battle of the Windmill, Spencerville Mill and the wrecked steamer *Conestoga*. The dangerous "galloping rapids" on this part of the St. Lawrence River have been circumnavigated by canal since 1846, with two historic routes for the Galop Canal still visible today against the backdrop of the modern St.

Lawrence Seaway. The Township's vision is to connect remnants of the old Galop Canal to create a continuous, 15-km waterfront trail linking spits of land and islands in the river to each other and to the village of Cardinal. This project will increase safety for trail users by getting them off Highway 2 and provide a beautiful waterfront setting to enjoy the landscapes and history of the St. Lawrence River.

Some 550 km to the west of the village of Cardinal, the City of Mississauga is preparing for a radical transformation of the lands formerly occupied by the coal-fired Lakeview Generating Station. Most of the buildings have been

removed, leaving a 200-acre blank slate available for new uses. Until recently, the future of this site was the subject of debate and protest, with Ontario Power Generation planning a natural gas power station, and the community mounting strong opposition. But rather than simply oppose the power station, the Lakeview Residents Association worked with the University of Toronto's School of Landscape Architecture to create a bold alternative vision for the evolution of industrial brownfield lands into a vibrant, diverse work-live-play area on the waterfront. Recognizing the close alignment between the community's Lakeview Legacy Project, its new strategic plan, and the

(Cont. on page 7)



PHOTO: SUZANNE BARRETT

Close to nature on Duffins Creek Bridge, Ajax

Planning for Employment Is a Fresh Approach Required?

Controversial but necessary conversation?

Tim Jessop

The Growth Plan for the Greater Golden Horseshoe (GGH) is the first serious attempt by the province at regional planning in over 30 years. It has won prestigious awards for planning excellence as it strives to implement a vision of “complete communities” that focus development in urban growth centres, transit corridors and hubs, brownfield and grey-field sites. These “complete communities” will incorporate a mix of land uses to meet “people’s needs for daily living throughout an entire lifetime by providing an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open spaces for their residents.” As municipalities begin to implement the Growth Plan, a common problem is emerging. More than 50% of future employment growth is being directed to Employment Areas, which exclude residential and other non-employment uses, and encourage single-use and single-storey buildings with surface parking. This has the potential to undermine the plan and further promote sprawl.

Part of the problem is the growth forecasts to 2031. Unlike residential growth, there is little direction on how to accommodate jobs. As a result, many municipalities are using methods developed during the first region-wide forecasting study conducted in 1989 and allocating employment into three land-use categories: Major Office, Population-Related Employment and Employment Area. Major Office employment occurs in a free-standing building that either has a gross floor area larger than 10,000 m² or employs more than 500 people. This kind of employment is supposed to take place in downtowns and other intensification areas. Population-related employment is either located in, or intended to directly serve, residential neighbourhoods (examples include banks, restaurants, schools, retail and pharmacies). Employment Area employment occurs in industrial or business parks and, as noted above, is typically land-intensive, low-density development. The loss of Employment Areas through conversion to residential and commercial use is a growing problem and the Growth Plan has strong policies to protect against this threat. The 1989 method uses current trends to determine what proportion of growth is likely to occur in each category and since most employment today



Offices mix with traditional industry in employment areas

occurs in Employment Areas, the allocation strongly favours Employment Areas for future employment growth. The table below shows that, with the exception of Toronto, all municipalities in the Greater Toronto and Hamilton Area are planning to accommodate close to 50% or more of their employment growth in Employment Areas.

The Growth Plan is trying to change the pattern of growth, so it is fair to ask whether the use of methods that rely on pre-existing patterns may be inherently flawed. The actual distribution of employment has been gradually changing for several decades and a “new” economy is emerging that no longer needs so much Employment Area land. Where in the past most employment occurred in the industrial and manufacturing sectors of the economy, the service-based sectors now account for the majority of employment. This “new” economy is

Percentage of Employment Growth Allocated to Employment Areas¹

Durham	54%
York	52%
Toronto	1%
Halton	52%
Hamilton	54%
Peel ²	43%

¹ Growth Outlook for the Greater Golden Horseshoe. Hemson Consulting (2005)

² Peel is lower because Mississauga is nearly built out, leaving little room for new Employment Areas. Other parts of Peel Region are planning for over 50% of growth to occur in Employment Areas.

appropriately geared towards the creation of complete communities because service-based employment (much of which occurs in office buildings) can be integrated into mixed-use environments and concentrated in the downtown or around transportation hubs.

The Major Office category is market-driven and tends to concentrate in established areas. Mississauga has the highest concentration of Major Office in the GGH and this pattern is expected to continue well into the future. Other municipalities are much more likely to attract service-based employment in other forms such as smaller-scale offices. This service-based employment is being allocated to Employment Areas and inflating the amount of employment likely to occur in these areas. As the implementation of the Growth Plan proceeds, this issue must be addressed, if only because it is difficult to create a transit-oriented environment with such low densities. The strong stance taken by the Province to protect Employment Areas from non-employment use conflicts with the practice of allocating most employment growth (including service-based employment) to Employment Areas. Achieving high-density mixed-use neighbourhoods is unlikely to occur under this scenario.

The current pattern of employment relying on segregation of uses should not be relied on to predict the future and perhaps a new pattern should be developed. If Employment Areas are destined to employ mostly service-based industries, conversions of some properties to non-employment use need to be permitted so service-based Employment Areas can be developed into the compact, vibrant communities envisioned by the Growth Plan. If Employment Areas are to be defined more narrowly, as land reserved exclusively for intrusive uses that necessitate segregation, then the allocation of employment should be recalculated, placing less emphasis on the use of Employment Areas to accommodate employment growth.

Tim is currently completing his Master's in Environmental Studies and Urban Planning at York University and is a member of the OPPI Toronto District Executive Committee. His graduate research examines this issue in detail using the City of Hamilton as a case study. Tim can be contacted at tjessop@yorku.ca or 647-669-5254.

Intensification targets

It's not only about the numbers

Marcy Burchfield

The *Growth Plan for the Greater Golden Horseshoe* requires that municipalities accommodate growth by first looking inward to their already-urbanized areas before developing on greenfields. This policy has been formalized with a target rate for residential intensification within an urban boundary. A new study by the Neptis Foundation, *Implementing Residential Intensification Targets: Lessons from research in intensification rates in Ontario*, examines how the target and measurement work, in principle and practice.

Since intensification is not tracked in a uniform manner, the objective was to estimate historical rates of intensification, as defined by the Province, for lower- and upper-tier municipalities, and to compare those rates to the target rate. We first had to develop a methodology that mimicked the Province's approach to measuring intensification (counting the number of dwellings within an urban boundary and dividing it by all new dwellings within a municipality)

using publicly available data. We used satellite imagery to delineate an urban boundary for 1990, 2001 and 2006 and fine-grained census data to estimate the number of intensification units. Our urban boundary proved to be quite similar to the provincial one.

Drawing a line around an urbanized area is not a simple task. Urban development is a long-term process involving many stages and is heavily influenced by market conditions. The research showed that this process is visible in the landscape. The urbanized area is like Swiss cheese, full of non-urban holes, particularly at its edge. These pockets of undeveloped land may be parks or greenspace, but they may also be islands of vacant land completely surrounded by urban development. This is not "leapfrog" development but reflects what happens when development is built out of sequence, leaving holes that will be filled in when market conditions permit.

This has a direct impact on the implementation and measurement of the residential intensification target. We found that intensification rates for many municipalities were close to the target rate (40%) in the first ten years, but the rates dropped significantly in the last five years of the study period. This indicates that the target rate may be easy to achieve in the beginning, but as the development process plays out and infilling at the edge occurs, the target will become increasingly difficult to achieve.

It is never easy to measure the outcomes of plans and policies, but in setting targets and in devising systems of measurement, it is important to understand how both are impacted by the nature of the urban development process.

Marcy Burchfield is Geomatics/Research Program Manager for the Neptis Foundation. See the OPPI website for a longer version of this article at www.ontarioplanners.on.ca/content/Publications/ontarioplanningjournal.aspx

Cover (cont. from page 5)

provincial Growth Plan, City Council has decided to proceed with plans for a "mixed use, vibrant, sustainable waterfront community."

What's next?

Raising funds for implementation is an ongoing challenge, especially in today's tough economic climate. It is clear to the WRT and its partnership of waterfront communities that continued leadership and involvement of the Government of Canada and the Province of Ontario are essential to achieving the next milestones. The Trust and its partners have assembled a program that could bring a total investment of \$13 million to Ontario's waterfront by the end of 2011. The program involves 15 communities and 25 projects and is designed to:

- Move the Trail closer to the water's edge in 12 places
- Build 22 km of new trail
- Establish community and major regional trail links
- Create two new major waterfront parks and improve 16 others
- Increase biodiversity and restore four natural habitats
- Improve universal accessibility

- Construct two bridges and improve two others
- Interpret cultural or natural heritage in 11 areas.

Plans for the third Great Waterfront Trail Adventure (July 3–10, 2010), are under way. The waterfront communities invite readers to experience firsthand the dramatic changes that are taking place alongside Lake Ontario and the St. Lawrence River.

Change is a constant reality on the waterfront, one that continually tests our resolve and our creativity. For example, in February, Ontario Power Generation announced long-term plans to close the Pickering Nuclear Generating Station in the next ten years. It's a bittersweet announcement that creates economic uncertainty for Pickering, but also suggests opportunities to redefine this waterfront area for the future. When the WRT and its partners embarked on waterfront regeneration, they understood that it would require a long-term commitment. The collaboration and investment of the past two decades continue to inspire further improvements and innovation, motivated by the determination to leave our children a healthier, more attractive waterfront than the one we inherited.

Suzanne Barrett is Principal of Barrett Consulting, an independent consultancy specializing in environmental planning, facilitation and communications. Formerly a Project Director with the Waterfront Regeneration Trust, Suzanne led the Trust's work on the Waterfront Trail and Lake Ontario Greenway Strategy during the 1990s. Visit www.barrettconsulting.ca

Marlaine Koehler is Executive Director of the Waterfront Regeneration Trust, a not-for-profit charitable organization dedicated to bringing together people, ideas and resources for the regeneration of waterfronts. For more information, including a longer version of this article, visit www.waterfronttrail.org

T.M. ROBINSON Associates
Planning Consultants

TOM ROBINSON, MCIP, RPP

P.O. Box 221 Peterborough ON K9J 6Y8
(705) 741-2328 • Fax (705) 741-2329
Email: tmrplan@bellnet.ca

The Case Against Surplus Dwelling Severances

Protecting agricultural land requires choices

Ben Puzanov

Perhaps no other policy of the 2005 Provincial Policy Statement (PPS) is as controversial as item 2.3.4.1(c), which states:

Lot creation in prime agricultural areas is discouraged and may only be permitted for . . . a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.

The PPS defines prime agricultural areas as lands that include specialty crop areas, Canada Land Inventory Classes 1 through 7 soils and additional areas where there is a local concentration of farms that exhibit characteristics of ongoing agriculture. Most of the farmland in southern Ontario is classified as being in prime agricultural areas.

While the implications of this policy are immense, I have not encountered many land use planners who are opposed to surplus dwelling severances. Whether a province-wide shortage of rural planners or a lack of understanding of the consequences of the policy is to blame is anybody's guess. I will try to address the latter problem and hope that my colleagues are sufficiently inspired to alleviate the former, more serious issue.

According to the Ministry of Municipal Affairs and Housing, there were 15,000 severances in the province's agricultural areas between 1990 and 2000. The Ministry estimates that 80% of those severances created lots for residential use. To address this rapid loss of agricultural land, the Province included provisions in the Provincial Policy Statement in 1996 that were amended in 1997. This version of the PPS limited lot creation in prime agricultural areas to severances for agriculture uses and agriculture-related uses, surplus dwellings, farm retirement lots and residential infilling. While the province no longer supports the creation of farm retirement lots or residential infilling in prime agricultural areas, its stance on surplus dwelling severances has remained unchanged.

Lot creation in agricultural areas

in general, and surplus dwelling severances specifically, limit the expansion of existing livestock operations. While surplus dwelling severances trigger the application of the Minimum Distance Separation (MDS) formulae of the Ontario Ministry of Agriculture, Food and Rural Affairs, this mechanism provides minimal protection at best for our province's livestock operators. Although the severance of a surplus dwelling must comply with MDS I requirements, if the farm from which the dwelling is to be severed contains an existing livestock facility, this mechanism is only effective for mitigating existing conflicts and does not address future issues that will face livestock operators and neighbouring residential developments.

Expanding livestock vs accommodation

The creation of a new rural residential lot close to a livestock facility will, in some capacity, limit the ability of the operator to expand the operation; regardless of whether or not MDS I requirements are adhered to at the time of the severance. In today's technologically advanced society, livestock operators are increasing the size of their operations in order to take advantage of economies of scale and remain competitive. In some cases, these expansions double or triple the existing facilities. Depending on the configuration of the lot and the natural features on the property, a surplus dwelling severance could have significant financial consequences for a livestock operator if he or she cannot expand in a particular direction because of a rural residential lot that was once severed from the property.

In addition to limiting the expansion abilities of existing livestock operations, municipalities that permit surplus dwelling severances inadvertently discourage livestock operators from locating within their borders due to the fears of many of these business owners about surplus dwelling severances. From an economic development standpoint, this has serious repercussions for rural municipalities that rely on agricultural and agriculture-related uses for their tax bases. In today's economy, liberal farm severance policies could eliminate a municipality's chances of attracting young farmers to locate within its borders.

While most rural municipalities in Ontario prohibit farm severances that do not meet a

minimum lot area requirement for both the severed and retained parcels, those same municipalities often permit surplus dwelling severances. Typical minimum lot area requirements for farm lots range from 50 acres (20.2 hectares) to 100 acres (40.4 hectares). While the minimum lot area requirement is set by individual municipal comprehensive zoning by-laws, the policy direction to implement such minimum requirements is dictated by Section 2.3.4.1(a) of the PPS, which states that new farm lots are to be of a size appropriate for the type of agricultural use(s) common in the area and sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations. While the goal of this policy is to prevent the fragmentation of farmland throughout the province, surplus dwelling severances fragment farmland just the way farm severances that create small and inefficient agricultural lots do, although this occurs at a slower rate due to the smaller lot areas of surplus dwelling lots.

One of the chief reasons for surplus dwelling severances in certain areas of Ontario is people's desire to enjoy a rural lifestyle while living within a reasonable driving distance of an urban centre. Unfortunately, agricultural and livestock operations generate odour, dust and noise, which many people who relocate to lands outside of settlement areas consider to be nuisances. As a result, conflicts often arise between the residents living on land created by a surplus dwelling severance and neighbouring farm operators.

Furthermore, in my experience, illegal uses that contravene zoning by-laws tend to occur a lot more frequently on surplus dwelling lots than on traditional agricultural properties. While I am not implying that similar situations do not occur in urban areas, the fact that surplus dwelling lots are larger and located in rural, less populated regions of a municipality certainly plays a role. Agricultural areas are intended for agricultural and agriculture-related uses. When surplus dwelling severances are introduced into the equation, commercial businesses unrelated to agriculture (excluding home occupations) are a lot more likely to occur.

I have spoken with real estate appraisers and realtors about this problem. Their experiences indicate that farms that contain dwellings and are within jurisdictions that permit

surplus dwelling severances tend to be appraised higher than farms and associated farmhouses in areas that prohibit such severances. Higher prices for farmland create problems for farmers because of the increased capital required to purchase land. Many farmers have no intention of severing the houses that "increase" the values of farms in areas that permit surplus dwelling severances and would rather demolish them to increase their workable land area and avoid land use conflicts.

An additional problem can occur during the settlement area expansion process. The haphazard creation of rural residential lots in agricultural areas close to built-up settlements can hinder orderly development and the efficient use of land and infrastructure after a settlement expansion occurs and the lands are brought into the settlement area.

Section 1.1.3.9 of the PPS is directly related to settlement area expansions. This section states that "a planning authority may identify a settlement area or allow the expansion of a settlement area boundary only at the time of a comprehensive review." Section 1.1.3.9 also lists additional criteria to be met before a comprehensive review is undertaken. These policies are in place to protect agricultural land throughout the province. So if the requirements to be met



PHOTO: MICHAEL S. HANNETT PLANNING SERVICES LTD.

Policies hard to uphold in practice?

prior to expanding a settlement area are so strict, why is it so easy to create lots in these same agricultural areas by way of surplus dwelling severances?

While all land use planning decisions throughout Ontario must be consistent with the PPS, this same policy document must also be read and interpreted in its entirety. In my opinion, the PPS's direction to protect agricultural land should trump Section 2.3.4.1(c), the surplus dwelling section, of the same document. I urge all land use planners and rural

planning authorities in Ontario to revisit their surplus dwelling severance policies and pay them the attention they deserve.



Ben Puzanov

Ben Puzanov is a planner with the Municipality of Middlesex Centre in Ilderton, Ontario. He can be reached at puzanov@middlesexcentre.on.ca

Johnston Litavski 
 PLANNING CONSULTANTS
www.planners.to


Project Management
Land Use / Policy Planning
Development Approvals
Expert Testimony

Paul E. Johnston, MCIP, RPP
Johnston@planners.to 185 Carlton Street
 Ext. 222 Toronto, Ontario
 M5A 2K7

Adrian R. Litavski, MCIP, RPP
Litavski@planners.to P: (416) 323-1444
 Ext. 223 F: (416) 323-0388

LAND USE PLANNING THROUGH
 EXPERIENCE AND INNOVATION


**WESTON CONSULTING
 GROUP INC.**



**Planning and Urban Design
 Services since 1981**

Land Development Services
 Adaptive Reuse Strategies
 Project Management
 OMB Representation
 Subdivision and Site Plans
 Options Analyses

201 Millway Ave., Unit 19,
 Vaughan, Ontario, L4K5K8
 Tel: 905-738-8080, 1-800-363-3558,
 Fax: 905-738-6637
www.westonconsulting.com

 **Watson
 & Associates**
 ECONOMISTS LTD.

Consulting Services include:

- Land Market Needs Studies, Demographics and Fiscal/Economic Impact
- Asset Management Strategy and PSAB 3150 Compliance
- Pupil Forecasting, School Requirements and Long Range Financial Planning for Boards
- Water/Sewer Rate Setting, Planning Approval and Building Permit Fees and Service Feasibility Studies
- Municipal/Education Development Charge Policy and Landowner Cost Sharing

4304 Village Centre Court
 Mississauga, Ontario L4Z 1S2
 Tel: (905) 272-3600
 Fax: (905) 272-3602
 e-mail: info@watson-econ.ca

 **Mark L. Dorfman, Planner Inc.**

145 Columbia Street West, Waterloo
 Ontario, Canada N2L 3L2
 519-888-6570
 Fax 888-6382

Environmental Policy and Analysis
 Urban and Regional Planning
 Community Planning and Development
 Mediation of Planning Issues

Eastern

No Deed Too Small

Grant Moore

Last fall, the School of Urban and Regional Planning at Queen's University suffered the loss of Dr. Sue Hendler. A tenured associate professor at the School since 1993, Dr. Hendler succumbed to metastatic breast cancer at the age of 49.

I did not know Sue Hendler. I never had the opportunity to meet her, and never heard her lecture because my student days at Queen's predated her arrival by a number of years. But I surely missed someone special: at her memorial service, speaker after speaker attested to the ways in which she had affected their lives.

Those who knew her well refer to the quote she kept taped to the door of her office: "If anyone is going to change the world, it's going to be you." I've pondered this off and on in recent months. Is the appeal here mainly to students, those with full careers ahead of them and possessing the energy and idealism of youth? Older persons more buffeted by the vagaries of the world surely require forgiveness for their incredulity: how can an individual change the world when it seems so daunting a task to effect change in just one small corner of it?

Cynicism about "changing the world" may be understandable, but consider a different approach. The developing field of science, Chaos Theory, suggests that certain macroscopic systems, for example, weather systems or insect populations, are extraordinarily sensitive to the tiniest perturbations. A butterfly fluttering on a branch in West Africa may set in motion forces that eventually results in a hurricane over the Atlantic Ocean. Yet it is impossible to predict such an outcome.

Writing in 1958, American author Frederick Buechner compared the world to a great spider web: "If you touch it anywhere, you set the whole thing trembling . . . As we move around this world and as we act with kindness, perhaps, or with indifference, or with hostility toward the people we meet, we too are setting the great spider web a-tremble . . . Our lives are linked. No man is an island."

So what does this mean? As finite persons, we are limited in time, space, intelligence, and insight. But clearly our actions can change the world; we just may not realize it at the time. So perhaps this means we should conduct our lives as though all that we do, from the extra effort in our professional lives down to the smallest acts of kindness or encouragement, might produce a ripple effect through our world. This, I believe is the message of Dr. Hendler's quote.

Grant Moore is a graduate of the School of Urban and Regional Planning at Queen's University. He lives in Mississauga and can be reached at whizkidd66@bell.net

Questions raised about non-complying buildings

Greg Newman

The "grandfathering" of non-complying buildings or structures: does section 34(9)(a) of the *Planning Act* apply? The Township of Rideau Lakes hosted a workshop in February to share best practices in waterfront planning and development. The objective was to generate discussion on implications of a recent OMB and subsequent Divisional Court ruling likely to affect the way municipalities in Ontario, through their zoning by-laws, control legal non-complying uses and legal non-

complying buildings or structures. While the workshop largely focused on those communities with an abundance of waterfront lands, it should be noted that all municipalities in Ontario may be affected by the legal precedent created by the decision of the Divisional Court. A brief summary of both proceedings follows.

In 2008, the City of Ottawa enacted Comprehensive Zoning By-law 2008-250 (CZBL), which included zone provisions that purported to limit the repair, reconstruction or use of buildings that were non-conforming, in terms of their use, and non-complying, in terms of particular performance standards. These zone provisions were set out under Section 3 of the City's CZBL. Arguing that Section 3 of this CZBL

extended beyond those powers granted to municipalities under Section 34(9)(a) of the *Planning Act*, TDL Group Corporation appealed the passing of this CZBL to the Ontario Municipal Board [see *TDL Group Corp. v. Ottawa (City)*, 2009 Carswell Ont 7336 (O.M.B.)]. Based upon a thorough review of the case law presented by both parties, the Board found that "on a clear reading of section 34(9)(a) of the Act that such a municipal intent and effect of a zoning by-law is not permitted by the Act." The Board further provided that the use of buildings may see "renewal and change" and that "the Appellant would not lose its right to its legal non-conforming use during a closure for a voluntary repair or even replacement of the building." Ultimately, the Board found that a legal non-complying use could be re-established even if the building within

which that use is established were voluntarily removed. Following the decision of the Board, the City of Ottawa sought leave to appeal the matter to the Divisional Court [see *Ottawa (City) v. TDL Group Corp.*, 2009 Carswell Ont 7168 (Ont. Div. Ct.)]. While the OMB is recognized as a quasi-judicial body that does not set legal precedent, the Divisional Court can render an interpretation of the *Planning Act* which has the weight of law. The Divisional Court found that the decision of the Board was reason-

able; "reasonableness" being the standard of review for the Board's decisions.

Accordingly, the City of Ottawa's appeal was dismissed.

As one reads through the case materials presented by both the

Board and Divisional Court, it becomes apparent that it is primarily the "use" of property that is being protected under section 34(9)(a) of the *Planning Act*. There is little reference in the case law or even within the Act itself, which speaks to the "grandfathering" of a non-complying building or structure. If the decision of the Divisional Court is interpreted as being applicable to the continued use of a non-complying building or structure, then the ability to achieve improved municipal efficiencies may be undermined. A common waterfront planning dilemma is offered. If a cottage were situated 20 feet from a neighbouring body of water; and the required setback were 100 feet, when that cottage was to be replaced with a permanent home most municipal planners would seek to have the new structure built to comply with the



PHOTO: MICHAEL S. HANNETT PLANNING SERVICES LTD.

Arcane regulations have practical impact

current zoning standard. The "use" (i.e. residential) as protected under section 34(9)(a) of the *Planning Act* would not be compromised; rather, it would be the structure itself that is affected by the planner's attempt to achieve a water setback that offers improved environmental and aesthetic outcomes. It is with an evolving underlying framework of planning controls that we as professionals are able to achieve tangible change within an existing built community.

Taking into account the decision of the Divisional Court, municipalities are now faced with the challenge of re-evaluating how their regulatory controls affect the use and development of land, buildings, and structures which do not conform to the zoning standards of the day. In future, municipalities may choose to accept the decision of the Divisional Court and amend their zoning by-laws accordingly. Alternatively, a municipality, or group of municipalities, could take the position that there is a

need to distinguish between a non-conforming use and a non-complying building or structure and that the Divisional Court decision did not adequately differentiate between the two. The only way to validate this position, however, would be to see an application move beyond the OMB to the Divisional Court where a legal distinction could be made. To avoid the costs associated with seeing the matter taken back to the OMB and Divisional Court, planners may decide that this is a matter of particular importance warranting dialogue with the Ministry of Municipal Affairs and Housing (MMAH). Perhaps stemming from an in-depth discussion with the Ministry, changes could be incorporated into the *Planning Act*, thereby distinguishing between the continuance of a legal non-complying use versus the continued use of a non-conforming building or structure. Making the distinction could enable municipal planners to implement, through the findings of applied

research, science, and professional experience, land use controls that reflect evolving social, environmental, and economic considerations.

Greg Newman is Senior Planner at the Township of Rideau Lakes. He can be reached at gnewman@twprideaulakes.on.ca

Oak Ridges

Growth Plan Policy on the Ground: Urban Form Case Studies

Elana Horowitz

The *Growth Plan for the Greater Golden Horseshoe* released in 2006 envisions vibrant, complete, compact, walkable, transit-supportive communities for the region. To help illustrate what these communities might look like, the Ontario Growth

Secretariat of the Ministry of Energy and Infrastructure has produced urban form case studies of nine recently completed projects from across North America.

Intended to be inspirational rather than prescriptive, the case studies are a tool for understanding the Growth Plan's policies and how they can be successfully executed on the ground. The case studies can also be used to spark broader discussion on development and urban form issues, with an emphasis on the importance and benefits of compact development.

Selected from over 50 projects around the world, they:

- Best represent a range of land uses and designations addressed in the Growth Plan and diverse development scales that may be appropriate across the Greater Golden Horseshoe
- Demonstrate infill and intensification, as many are brown-field and greyfield redevelopments
- Illustrate density targets estab-

the randolph group

- ☐ strategic planning
- ☐ organizational effectiveness
- ☐ governance
- ☐ facilitation services

carolyn kearns | 111 king street east, 3rd fl
 michael rowland | toronto, ontario M5C 1G6
 susan wright | t/ 416 368-7402
www.randolph.on.ca | consult@randolph.on.ca

HARDY STEVENSON AND ASSOCIATES

- Socio-economic Impact Assessment
- Land-use and Environmental Planning
- Public Consultation and Facilitation
- Project Management

Tel: (416) 944-8444 Fax: 944-0900
 Toll free: 1-877-267-7794
 Website: www.hardystevenson.com
 E-mail: HSA@hardystevenson.com
 364 Davenport Road, Toronto, Ontario M5R 1K6

Fotenn
 PLANNING & URBAN DESIGN
 OTTAWA • KINGSTON

land use planning and development

sustainable community planning

urban design

strategic site evaluation

facilitation and public engagement

Ottawa Office:
613-730-5709

Kingston Office:
613-542-5454



www.fotenn.com

LEA Consulting Ltd.
 Consulting Engineers & Planners
 Tel: 905-470-0015 Fax: 905-470-0030
 625 Cochrane Drive, Suite 900
 Markham, Ontario, L3R 9R9 CANADA
www.LEA.ca

Providing engineering, planning and project management services for:

- ↳ Transportation & Transit Planning
- ↳ Traffic Engineering & Signals
- ↳ Construction Administration
- ↳ Municipal & Development Engineering
- ↳ Transportation Systems (ITS)
- ↳ Parking & Servicing
- ↳ Roads & Highways
- ↳ Bridges & Structures

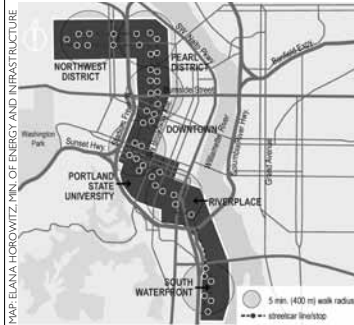
- lished in the Growth Plan
- Support nearby transit, encourage walking, and are mixed-use
- Demonstrate high-quality urban design and built form
- Are highly marketable, economically successful, and award-winning
- Are in climate zones similar to the Greater Golden Horseshoe.

While each case study illustrates Growth Plan policies and offers its own individual lessons, there are some common factors for success:

- Engaging and consulting with the public and stakeholders early in the planning process is essential and helps ease the approvals process.
- Increasing density allowances has a number of benefits, including supporting transit, making more compact, cost-effective projects, providing a range of housing types, using

infrastructure more efficiently, and adding vitality to the neighbourhood.

- Providing shops and services is key to building complete communities and reducing car dependency.



Portland transit corridor

- Establishing clear urban design requirements for walkable, compact development results in high-quality urban design and built form.
- Partnering and collaborating

with governments, institutions, landowners, community groups, private developers, and community development corporations can result in higher quality urban design and built form, innovative funding strategies,



Light rail in Portland

and more environmentally sustainable projects.

The case studies are presented as full-colour “PDFs,” ranging from four to seven pages each.

They list the relevant Growth Plan policies and describe the project, its planning context, transportation and transit, and public realm and built form, as well as other features, such as energy and environmental sustainability and innovative funding strategies. They each contain a context map, a project data table, a site plan, and photos.

The Ontario Growth Secretariat encourages you to download and use the case studies. They can be found on the Places to Grow website, placestogrow.ca, under the Tools and Resources menu, on the Discussion and Education Tools page.

Feedback on the existing case studies and suggestions for future cases studies are welcomed at placestogrow@ontario.ca. Many projects planned or under development in the Greater Golden Horseshoe will exemplify the



MHBC
Established in 1973

Planning Urban Design Landscape Architecture

Kitchener (519) 576.3650	Vaughan/GTA (905) 761.5588	London (519) 858.2797	Kingston (613) 384.7067	Barrie (705) 728.0045
------------------------------------	--------------------------------------	---------------------------------	-----------------------------------	---------------------------------

www.mhbcplan.com

PLANSCAPE

BUILDING COMMUNITY
THROUGH PLANNING



MARGARET WALTON M.Pl. MCIP RPP
RICK HUNTER MCIP RPP
GREG CORBETT M.Pl. MCIP RPP
ANGELA GHIKADIS B.Sc (Hon.)
Nancy LeBlanc MCIP RPP

104 Kimberley Avenue,
Bracebridge, ON P1L 1Z8

T 705.645.1556 **F** 705.645.4500
E info@planscape.ca
W www.planscape.ca

ARMSTRONG HUNTER & Associates

Land Use Planning Development Project Management Expert Testimony

In the Greater Toronto Area contact
Stephen Armstrong or Craig Hunter:
416-444-3300

In the Hamilton Region contact Paul Moore:
905-383-0689

www.armstronghunter.ca



PLANNING & DEVELOPMENT SERVICES

Ruth Ferguson Aulthouse MCIP, RPP
President

211 Dundas Street East, Suite 202
Belleville, ON K8N 1E2
P: 613.966.9070 W: www.rfaplanningconsultant.ca

Growth Plan's goals and will serve as models for the future.

Ontario Growth Secretariat

The Ontario Growth Secretariat, within the Ontario Ministry of Energy and Infrastructure, is a multi-disciplinary team spanning the fields of planning, urban design, architecture, engineering, economics, and environmental sciences. The Secretariat is responsible for implementing the Places to Grow initiative, including growth plans for the Greater Golden Horseshoe and Northern Ontario.

Lakeland

Oakville Moves Forward With Heritage District

Michael Seaman

One of the most important tools for municipalities interested in preserving their built heritage is the heritage register, a listing of everything in a community thought to be of cultural heritage value or interest which serves as the foundation for local efforts in heritage conservation. In 2005,



Michael Seaman

through changes to the *Ontario Heritage Act*, municipalities were given the opportunity to formally adopt local heritage registers, and subsequently received associated powers to delay the demolition of heritage resources for 60 days. As

a result, heritage inventories or registers moved from being an informal list of properties, to a real tool that can protect heritage resources. To take advantage of this provision, municipalities have to pass a by-law under Section 27 of the Act.

A key contributor to the success of the Oakville Heritage Register update was ensuring that property owners were provided with the information that they require to understand what inclusion on the heritage register means to them. This was achieved through an education and communication strategy, with the assistance of the Town's communications department. Oakville's heritage planning team received a sizable volume of calls in the weeks following the adoption of the new register. For the most part, however, once the implications were explained, the stakeholders usually understood that the consequences were relatively minor, and did not object to the inclusion of their property

on the register. It was also clear that if the municipality were to take the next step (i.e., designation or establishing a heritage district) there would be additional consultation. The result is that Oakville has now included all known heritage resources on its heritage register, providing a base level of protection against demolition. Property owners are all aware of the register, and if they do request reconsideration, there is a fair and objective process by which those requests may be considered. In the interim, the heritage resource has a measure of protection. Although numerous inquiries have been received since the register was adopted by Council, only a handful of applications for removal from the register have been received.

Michael Seaman, MCIP, RPP, is Manager of Heritage Planning with the Town of Oakville and contributing editor for Heritage.

People

Practice relocates

After over a decade as Director of Planning Services at Giffels Corporation, **Valdemar Nickel** is pleased to announce the relocation of his planning practice to NORR Limited Architects, Engineers, Planners. Valdemar will continue in his role as Director, managing the Giffels industrial/commercial portfolio in addition to large scale institutional consulting projects NORR is currently undertaking. **Susan Ashton**, a senior planner in Clarington's development review branch, is leaving the municipality after 16 years to join the City of Oshawa's planning department as a principal planner.

Steve Harding, a GIS technician in Clarington's special projects branch has retired after 25 years of service with the municipality. Also retiring from Clarington's planning department is Larry Taylor, manager of subdivision implementation.

bmi | pace

Planning | Urban Design | Architecture | Landscape Architecture

Brook McIlroy Planning + Urban Design | Pace Architects

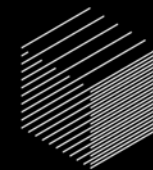
51 Camden Street, Suite 300 Toronto, Ontario M5V 1V2 t 416.504.5997 f 415.504.7712
www.brookmcilroy.com

Walker Nott Dragicevic Associates Limited

Planning + Urban Design

90 Eglinton Avenue East
Suite 701
Toronto, Ontario
M4P 2Y3

t: 416-968-3511
f: 416-960-0172
w: www.wndplan.com





Ontario Institut des
Professional Planners Planificateurs
Institute de l'Ontario professionnels

Ontario Planners: Vision • Leadership • Great Communities

234 Eglinton Ave. East,
Suite 201, Toronto, Ontario, M4P 1K5
(416) 483-1873 or 1-800-668-1448
Fax: (416) 483-7830
E-mail: info@ontarioplanners.on.ca
Web: www.ontarioplanners.on.ca

PRESIDENT

Sue Cumming, MCIP, RPP
cumming@total.net, 613-546-3715

PRESIDENT ELECT

Mary Lou Tanner, MCIP, RPP
marylou.tanner@niagararegion.ca,
905-685-4225 x3518

DIRECTORS

Policy Development
George McKibbon, MCIP, RPP
georgeh@mckibbonwakefield.com
905-631-8489

Recognition,
Cathy Saunders, MCIP, RPP
csaunders@london.ca, 519-661-2500 x4937

Membership Services,
Dana Anderson, MCIP, RPP
danderson@oakville.ca, 905-815-6020

Membership Outreach,
Mark Paoli, MCIP, RPP
markp@county.wellington.on.ca
519-837-2600 x2120

Professional Practice & Development
Marilyn Radman, MCIP, RPP
marilyn.radman@niagararegion.ca
905-685-4225 x3485

DISTRICT REPRESENTATIVES

Eastern, Rory Baksh, MCIP, RPP
rbaksh@dillon.ca, 613-745-2213 x249

Toronto, David Oikawa, MCIP, RPP
doikawa@toronto.ca, 416-392-7188

Northern, Donald McConnell, MCIP, RPP
d.mcconnell@cityssm.on.ca,
705-759-5375

Southwest, Steven Jefferson, MCIP, RPP
steve@ksmart.on.ca, 519-748-1199 x230

Oak Ridges, Carlos Salazar, MCIP, RPP
csalazar@clarington.net, 905-623-3379 x353

Lakeland, Robert Armstrong, MCIP, RPP, CPT
ramstrong@meaford.ca, 519-538-1060 x1121

Western Lake Ontario, Rosalind Minaji, MCIP, RPP
minajir@burlington.ca
905-335-7642 x7809

Student Delegate, Adam Zendel
zendel@yorku.ca
416-782-3838

EXECUTIVE DIRECTOR

Mary Ann Rangam, x223

MANAGER, FINANCE & ADMINISTRATION
Robert Fraser, x224

MANAGER, POLICY & COMMUNICATIONS
Loretta Ryan, MCIP, RPP, x226

MANAGER, PROFESSIONAL STANDARDS
Brian Brophay, x229

REGISTRAR

Ron Keeble, MCIP, RPP, x227

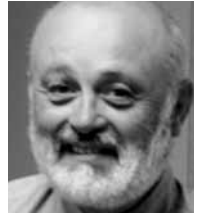
EXECUTIVE ASSISTANT
Vicki Alton, x100

MEMBERSHIP COORDINATOR
Christina Edwards, x222

ADMINISTRATIVE CLERK
Maria Go, x225

Looking for a Cure for Solastalgia

George McKibbon



DOES AN ECOLOGICAL unconscious exist? Author Daniel Smith feels that it does. Smith discusses the work and thought of Glenn Albrecht. Albrecht coined the term “solastalgia” or “the pain experienced when there is recognition that the place where one resides and that one loves is under immediate assault. A form of homesickness one gets when one is still home.”¹

The original research on ecological unconscious focused on impacts associated with Australian open pit mining. Smith believes these findings also apply to climate change and associated extreme weather events. I think built environments that are not sustainable or walkable, safe communities may also contribute to this condition, especially when we cannot function within our communities on foot.

These two seemingly unrelated issues have become important to me over the past several years and their coming together to contribute to the solastalgia debate provides challenges and opportunities for all of us both professionally and personally.

Since November 2007, I have had the honour of serving OPPI on Council and as Chair of the Policy Committee. Over that time we have:

- helped implement OPPI's Healthy Communities initiative;
- prepared and released two calls to action on Planning for the Needs of Youth and Children and on Aging communities;
- partnered with the Ministry of Municipal Affairs and Housing to prepare and release the Healthy Communities Handbook.

I have spoken over 12 times to municipal, student and planning audiences on our Health Communities initiative, including participation in an Ontario Municipal Board training session. My presentations conclude with the observation that unless our profession creates more active built environments that can address broad and complex issues related to climate

change, the lives of our children and grandchildren will not be as long or as rich as the lives we lead.

With planning student audiences I modify the closing to reflect my experience giving evidence at administrative tribunals and courts. I recount how planners often conclude their evidence with an opinion as to whether the project under appeal represents good or bad planning. With climate change and the health risks associated with inactive communities, I challenge them with the prospect that the measures needed to distinguish between “good” from “bad” planning decisions must change if we are to plan for climate change mitigation and adaptation and create active

built environments.

In 2010, OPPI will have the two opportunities to address this challenge. In March, the five-year review of the Provincial Policy Statement will begin. In the spring, OPPI will

The measures needed to distinguish between “good” from “bad” planning decisions must change

participate in Ontario Municipal Board stakeholder sessions reviewing the implementation of various measures provided for in Bill 212. Watch for opportunities to participate in these reviews in OPPI's e-newsletter.

¹ Smith Daniel B., “Is there an Ecological Unconscious?” in *The New York Times Magazine*, January 21, 2010, page 38.

George McKibbon MCIP, RPP, AICP, is chair of OPPI's Policy Development Committee and a principal of McKibbon Wakefield Inc. Environmental Planning in Hamilton. He can be reached at GeorgeH@mckibbonwakefield.com

THE BUTLER GROUP CONSULTANTS INC.

Land Planning Services

David A. Butler, MCIP, RPP
President

11 Hazelton Avenue, Suite 300
Toronto, Ontario M5R 2E1
416.926.8796 Fax 416.926.0045
E-mail dab@butlerconsultants.com



Paul Stagl—Providing Professional Guidance for the Institute and its Members

Bryan Tuckey

The Discipline Committee is often a forgotten committee that deals with very difficult and very personal issues. It is a key component in maintaining a planner's status as a licensed professional in Ontario.

Paul's efforts during his term were nothing short of outstanding. The Committee was faced with an increasing number of requests and complexity of issues found within these investigations. It was a challenging six years.

Paul led the Committee and OPPI Council through his term by providing clear, consistent and compassionate leadership which focused on the issues while maintaining the integrity of the Institute.

When Paul took over as chair of the Discipline Committee in 2002, we were provided a solid basis for our deliberations. Paul was the "clearing house" for every issue the committee faced. He initiated a continuous improvement program for the development



Paul Stagl

and review of the Institute's standards of practice, the national code of practice and provided recommendations to enhance the OPPI Discipline process to be more in line with the Statutory Powers and Procedures Act. All of his suggestions were adopted in the OPPI by-law when it was revised in 2009. Paul was also a participant on the National Task Force on Professional Ethics mandated to develop ethical standards for the profession.

The Discipline Committee deals with very important, personal, and emotionally charged issues that potentially affect the livelihood of the member and

integrity of our Institute. Paul was the first (and often the last) point of contact for each and every case. All people involved left the process having been carefully listened to, had the rules and procedures fully explained so they had a much better understanding of a planner's responsibilities and ethical basis that guides professional planners. Individuals had a clear sense of being treated fairly—an obvious testament to Paul's ability.

This was a job well done, Paul. I know I can speak for the entire Committee, in stating that your leadership, and the abundance of administrative work you completed on our behalf, allowed us to enjoy our time on the OPPI Discipline Committee. Paul Chronis, MCIP RPP is the newly appointed Chair.

Bryan Tuckey, MCIP, RPP, is Vice-Chair OPPI Discipline Committee, and Commissioner of Planning at the Region of York.

Policy Development Committee

The OPPI's Policy Development Committee, guided by George McKibbin, is involved in a number of initiatives in which members are invited to participate. A sampling of those underway includes:

- A response to MNR with respect to the Regulatory Component to Support Development and Implementation of Source Protection Plans Under Clean Water Act, 2006.
- Comments on the Proposed Growth Plan for Northern Ontario, to the Ministry of Energy and Infrastructure.
- The research needs of TORC (The Ontario Rural Council), and the universities of Guelph and Queen's.

For more information contact OPPI's Manager of Policy, Loretta Ryan at policy@ontarioplanners.on.ca

- Market Research and Analysis
- Economic Impact Analysis
- Economic and Tourism Strategies
- Site Selection
- Location Analysis and GIS
- OMB and Litigation Support



67 Yonge Street, Suite 1501
Toronto, Ontario, M5E 1J8
Phone: 416.351.8585

Doug Annand • Rowan Faludi • Lynne Davidson • Peter Thoma

www.urbanmetrics.ca

1.800.505.8755

planningAlliance

*community planning
urban design
infrastructure
housing*

205 - 317 Adelaide Street West
Toronto, Ontario M5V 1P9
t 416 593 6499
f 416 593 4911
www.planningalliance.ca

John van Nostrand, MCIP, RPP, FRAIC
jvannostrand@planningalliance.ca

Toronto District Programming Reflects Close Connections to City of Toronto, Universities

David Oikawa

The Toronto District has been busy, having organized a number of events over the past year on a range of topics of interest to district members.

On a sunny evening last May, 45 members were led by Mike McCart and Dave McKillop from the City of Toronto Planning Division, and Anne McLroy, from Brook McLroy, in a discussion about the planning and urban design considerations of the redevelopment of the Motel Strip (formally known as the Humber Bay Shores) on the Lakeshore at the Humber River in western Toronto. Humber Bay Shores is a dense, newly redeveloping high-rise neighbourhood which currently has 17 towers with plans for another 12. The tour leaders explained the complex history of the redevelopment efforts over the past 30 years, and how the remaining lands are being planned. The group was taken on a walking tour to observe the buildings, lakefront trail and parks, roads and pending application lands remaining. To conclude, the group met at the Café Mendoza restaurant for food and drinks, and were able to watch the sunset with the backdrop of the City skyline.

Then in October, the Toronto District had a sold-out event with standing room only to hear from Calvin Brook and Anne McLroy, from Brook McLroy Inc./Pace Architects, and Lorna Day, from the City of Toronto Planning Division, talk about the Avenues and Mid-rise Buildings study and how it will transform Toronto's avenues. The study topic fit in well with OPPI's healthy communities initiative, as midrise, mixed-use developments along Toronto's major roads will help to create transit supportive, walkable and liveable communities. This is a really interesting and important initiative by the City and it was great to see so many planners attend the event to learn more about it.

The Toronto District's 2009 World Town Planning Day event focused on "Planning for Age-Friendly Communities" to further our

understanding of the topics discussed at the OPPI Guelph Symposium on the "Gray Tsunami." It was held at Tapestry at Village Gate West, a lifestyle retirement residence in Etobicoke. The in-house chef provided some tasty snacks while attendees networked and waited for their opportunity to break off in small groups on a guided tour of the facility. Following the completion of the tours, a discussion was led by Carol Hrabí (Concert Properties Ltd.), Laura Buchal and Emily Irvine (City of Mississauga), Rick Merrill (the Planning Partnership) and Christian E. Fisker (Chartwell Seniors Housing) on what planners can do to accommodate an aging population. (An article about the event appeared in the most recent issue of the Ontario Planning Journal.)

The district's annual winter social was held in the Austin Gallery at One King West. This heritage building from the mid-1800s was originally a bank and recently converted to a hotel and residential condominium. Over 100 planners attended the event and almost as many walked away with a prize from our raffle. At the event, Meghan O'Donnell, OPPI's 2009 undergraduate scholarship award winner and Dan Nicholson, OPPI member service award winner, were introduced and recognized. An exciting venue, the CN Tower, is already booked for our 2010 winter social so be sure to buy tickets as soon as they become available! We expect it to sell out quickly. Thanks to all the volunteers who helped coordinate and plan this successful event.

First event a hit

Our first event of 2010 was held in February and coincided with the gold medal game for women's Olympic hockey. Several people in attendance were seen checking their smart phones for updates on the game. Despite the distraction of the Olympics, it was a very interesting event on a very timely topic. The speakers were George McKibbin (chair of OPPI's Policy Development Committee and Principal of McKibbin Wakefield Inc.), Regan Smith (Halsall Associates Ltd.) and Thelma Gee (Ministry of Municipal Affairs and Housing). George started the session with a synopsis of the Healthy Communities initiative. Thelma led a discussion on the recently released "Planning by Design: a healthy communities handbook" released by the Ministry of Municipal Affairs and Housing, in partner-

ship with OPPI. The speakers noted that this handbook is adding to an ongoing discussion, dating back to the industrial revolution, on how planners should be designing healthy communities. Finally, Regan described an interesting application of healthy community design in the Lawrence Heights neighbourhood of Toronto. The City of Toronto is currently undertaking the Lawrence-Allen Revitalization Project. Her presentation centred on the district energy initiatives and energy-efficient design being examined for the redevelopment of this existing neighbourhood.

The Toronto District contains three CIP-recognized planning schools. This year's annual student event brought students from the Ryerson, University of Toronto and York University Programs to Toronto's historic Gladstone Hotel on March 24 to meet each other and network with practising planners. The Gladstone is a wonderful example of the re-use and renovation of a historic building, which is always inspirational as an event location. Speakers included several "celebrity" panel members to discuss the topic of "Big City Builders," as well as Mary Lou Tanner, President Elect of OPPI, to speak to these future members of the institute.

Also watch for news for another program night event to be held in May or June. We have a number of possible topics in mind for this event—so many it's hard to decide.

The boundaries of the Toronto District coincide with those of the City of Toronto, so keeping up to date with the many planning initiatives being undertaken by the city is a challenge. Among recently developed and developing initiatives are: a mandatory green-roof by-law (the first in north America); the Toronto green standards for new developments; the corridor intensification mid-rise study as described above, the living downtown tall buildings study and the development of a new comprehensive zoning by-law—the first for the city since it was amalgamated over ten years ago.

The Toronto District has a large and dedicated core of volunteers who help us to organize our events and council activities. I'd like to thank them all for their dedication and hard work.

David Oikawa, MCIP, RPP, represents the Toronto District on Council and works for the City of Toronto.

MACAULAY SHIOMI HOWSON LTD.
MUNICIPAL AND DEVELOPMENT PLANNING SERVICES

**Professional Land Use Consulting
Services since 1981**

600 Annette Street, Toronto, ON M6S 2C4
T 416 487 4101 F 416 487 5489

Email mshmail@mshplan.ca Web www.mshplan.ca

Editorial

What Would Jane Jacobs Say About the State of Planning Today?

Glenn Miller



Jane Jacobs' relationship with the profession was not always an easy one

APPROACHING the fourth anniversary of Jane Jacobs' death, it is worth asking how well her ideas about cities are faring in 2010. Hardly a day goes by without her name being invoked in the media in support of a mixed-use project here or as a warning against a particular transportation scheme there. Sometimes, however, her iconic status can deter debate and the principles for which she argued so passionately are offered up in place of rigorous analysis—something that she would surely have abhorred.

Although many planners treasure their copies of *Death and Life*, and openly subscribe to her philosophy of urbanity, Jane Jacobs' relationship with the profession was not always an easy one. In the July/August 1993 issue of the *Ontario Planning Journal*, for example, Ms Jacobs famously suggested that “official planning departments seem to be brain-dead in the sense that we cannot depend on them . . . to provide intellectual leadership.” She underscored her claim by citing a dozen or more major city building initiatives that had originated or been promoted by non-planners. The responses—pro and con—filled the pages of this magazine for many months and even spilled over on to the national scene in *Plan Canada*.

The good news is that such criticisms are much harder to support today. The positive response to the Institute's Healthy Communities initiative is a case in point—where the principles espoused in that document

can be traced to work being done by planners all over the province. More importantly, planners today work confidently and collaboratively with professionals from many other disciplines, focused on the outcomes rather than attribution. As Paul Bedford has argued in this magazine, planners—by definition—do not work in isolation and our ability to integrate new ideas into professional practice is fundamental to successfully leveraging opportunities that arise.

But, as every planning director experiences at budget time, the challenge of doing more with less puts pressure on the need for quality, both individually and across the organization. This suggests that a commitment to continuous professional learning will be increasingly important for planners, regardless of sector. Whether it is mastering the complexities of new legislation, gaining a better understanding of project management or honing presentation skills, the quest for excellence should be a constant. The philosophy of “continuous improvement” works for corporations and planners can benefit from a similar approach to their professional responsibilities. Jane Jacobs couldn't ask for more.

Glenn Miller, FCIP, RPP, is editor of the Ontario Planning Journal and vice president, education and research, with the Canadian Urban Institute in Toronto. He can be reached at editor@ontarioplanning.com

Letters

Uniting a region with one image

AS THE WATERSHED MANAGER for the City of London and a member of OPPI, I reviewed my newest issue of the *Ontario Planning Journal* (Jan/Feb 2010) with extra-special interest as the front page was so captivating, using an image produced by the Neptis Foundation. What is unique in the image, in my opinion, is not only the high quality, but the perspective of the image looking west over Toronto towards Michigan. For this reason, London appears to be located in the middle of a peninsula, surrounded by the vast waters of the Great Lakes. It is a perspective that would be very helpful for my purpose in education and awareness in the context of London and the potential impacts of climate change.

—Patrick Donnelly, M.Sc. MCIP, RPP, Urban Watershed Program Manager, City of London

There's my house!

I ALWAYS ENJOY RECEIVING my “Journal” to maintain a sense of contact with the profession. The cover on the Jan/Feb issue is particularly great as I can pick out my home location (approximately) in Port Burwell on Lake Erie and see it in relation to the GTA. Here in this very quiet backwater (said with affection) the GTA seems so far away with little or no connection. But the image used for the cover shows just how close we are to the GTA; looking at a map of Ontario also conveys this sense—but not nearly so dramatically. We are all in this together.

—John Seldon, MCIP, RPP, Port Burwell

LETTERS TO THE EDITOR

Members are encouraged to send letters about content in the *Ontario Planning Journal* to the Editor (editor@ontarioplanning.com). Please direct comments or questions about Institute activities to the OPPI President at the OPPI office or by e-mail to executivedirector@ontarioplanners.on.ca

A compartmentalized approach to biodiversity will not do

International Year of Biodiversity has the potential to be a turning point

Gord Miller

Seven species that once lived in Ontario have become globally extinct in modern times. Another 12 once in Ontario are no longer found here. We also have almost 200 species whose survival is in jeopardy. It is an alarming trend that these numbers increase year after year.

Human impacts on the natural world are responsible for this crisis. The most significant threats are climate change, habitat loss, invasive species, over-harvesting, and pollution. This unprecedented loss of species is the most visible part of what scientists call the biodiversity crisis.

Biodiversity is inextricably linked to the quality of the air we breathe, the water we drink, the soils we depend upon for our food, and the lands upon which we depend for our natural resources. It's about our rivers and lakes, our woodlots and forests, wetlands and prairies, and even the songbirds in our backyards.

Land use planning has a critical role in addressing biodiversity loss. Municipal official plans, guided by the Provincial Policy Statement, are arguably the first line of defence. Planners need to view themselves as stewards of the natural environment and ensure that land use policies can sufficiently meet the challenges of this crisis.

January marked the start of the International Year of Biodiversity. The

United Nations General Assembly chose 2010 to raise understanding globally, to assess what has been done by governments, and to chart a new way forward.

We can be proud that Canada was the first industrialized country to become a signatory of the international Convention on Biological Diversity after the Rio summit in 1992. Almost every country has since formally pledged its support for this international effort.

These countries jointly set the goal "to achieve a significant reduction of the current rate of biodiversity loss" by 2010.

Unfortunately, according to the United Nations, this goal will not be met anywhere. Canada ranks in 80th place globally for its efforts to conserve biodiversity. Clearly, a renewed effort is needed.

In June, our province will be the host for the summit of the G8 in Huntsville, which is an important opportunity to highlight that the loss of biodiversity has clear consequences for our global economy. Then in October, the world will meet in Nagoya, Japan, to set targets and detail the necessary steps to halt biodiversity loss.

We are not without our own successes. Species such as the peregrine falcon and the bald eagle have slowly rebounded in Ontario. However, such tangible accomplishments seem to be the exception rather than the rule.

The Ontario government started down the right path in 2005 by creating a five-year biodiversity strategy. Other advances have been made, including putting in place better laws for protecting our provincial parks and species at risk. These initiatives have the potential to make a difference, but they must be matched by the political will to make conservation a priority.

A key barrier for the Ontario government has been the failure to make biodiversity conservation an explicit responsibility of all government ministries in all their activities that have an impact the natural environment, whether they oversee highway planning, municipal growth, mining or agriculture. Instead, concern for biodiversity often remains compartmentalized within the Ministry of Natural Resources. Simply put, it gets lost within the government bureaucracy.

Action on biodiversity must be integrated across the Ontario government as a whole. In a way, it's not much different than the challenges of tackling climate change. Dealing with globally significant environmental issues must explicitly be seen by politicians and the public as a government-wide responsibility of the most serious urgency.

"Does this better or worsen biodiversity?" That's the question that we all must ask from now on. It should be asked when debating a new law or even when figuring out if the location of a new subdivision is appropriate.

We have to ask this kind of question—and have it treated seriously—if we're sincere about joining the international community to halt the loss of biodiversity in the years ahead. At a minimum, we should at least be making our own measured decisions about Ontario's biodiversity with the best possible information.

At this stage, it is results that count. We need much more than promises or rhetoric. The consequences of failing to properly address the biodiversity crisis are clear.

Gord Miller is the Environmental Commissioner of Ontario, serving as the province's independent environmental watchdog.

**MALONE GIVEN
PARSONS LTD.**

**Urban & Regional Planning
Master Planning
Market & Economic Analysis
Geographic Information Systems
Project Management
Economic & Tourism Development
Urban Design**

East: 140 Renfrew Drive, Suite 201
Markham, Ontario L3R 6B3
T: 905.513.0170
F: 905.513.0177

West: 2948 Clifftrose Crescent
Coquitlam, BC V3E 2T2
T: 604.941.8283
F: 604.941.8203

www.mgp.ca
www.mgpinfo.com



Planning Futures

CSI Miami—Creative, Simple and Innovative

Paul J. Bedford

MANY OF US ASSOCIATE Miami with the TV show about Crime Scene Investigation, but after meeting Miami City Planning Director Ana Gelabert-Sanchez and her senior staff on a recent winter break and learning about a new city-wide performance based zoning code called Miami 21, I think CSI should stand for Creative, Simple and Innovative. Here's why.

Starting points

Miami is the home of Andres Duany and Elizabeth Plater-Zyberk, who are probably the “parents” of Smart Growth and New Urbanism. Beginning with Seaside, Florida, they have since been involved in numerous planning initiatives all over the world, including local area exercises such as Cornell in Markham and a new village in Niagara-on-the-Lake. It is therefore no surprise to learn that they were the principal authors and proponents of a revolutionary new approach to zoning called Miami 21. This city-wide performance code replaces what we would call a traditional zoning by-law. It is all about making the public planning process more intelligent and producing a sustainable city. After three years and more than 500 meetings, the concept was adopted by the City Commission last October 22, and will take effect on May 20, 2010. The best way I can describe it to Ontario planners is that embodies many of the principles of the successful 1995 King-Spadina and King-Parliament urban design-based planning approach and extends them city-wide.

As we know, traditional zoning had its origin in a famous U.S. legal case in Euclid, Ohio, where zoning was upheld in 1926 as a legitimate governmental power. In the U.S., Euclidean zoning is typically characterized by establishing and regulating land use in separate zoning districts such as residential, commercial, institutional and industrial. Over time, the focus on size and height has resulted in urban sprawl, bedroom suburbs with long commutes, automobile dependency, excess parking and streets generally built only

for cars, and poor pedestrian amenity and street life.

In contrast, performance-based zoning codes advocate regulating development to achieve specific built form outcomes emphasizing mixed use, greater intensity of activities, predictable public realm, healthy pedestrian environment, transit-oriented development and a more sustainable overall result. Performance-based zoning codes are based on prescriptive standards that state what

you want in contrast to traditional zoning based on prescriptive standards that state what you don't want! As such, performance zoning is pro-active and is much easier for citizens to read and understand. It also produces healthier cities that work.

Key Features of Miami 21

The new performance code has ten core principles, eight articles or sections and a defined public benefits program. I will only share the highlights and encourage readers to go to www.miami21.org for the details. The core principles include creating a mix of land uses, building compact communities, creating a range of housing opportunities and choices, creating a safe environment for non-motorized vehicles and pedestrians, fostering neighbourhood pride through distinctive, high-quality communities, conserving open space, views and environmentally sensitive areas, investing in a mix of transportation options, making predictable development decisions that are fair and cost-effective and encouraging community and stakeholder collaboration. As you can see, these would be at home in almost any Ontario city. The advantage of embracing core principles is that you can relate all future development against these principles to assess if they advance or detract from them over time.

The eight articles or sections of the new code include definitions, general provisions, general requirements for each zone, standards and tables, specific zone standards, supplemental regulations, procedures and nonconformities and thoroughfares. You will find heights, densities, parking and land use provisions, but there is a lot of room left to achieve public planning objectives through predictable built form.

The public benefits program is most interesting as it targets specific areas and provides incentives in the form of height and density to help achieve them. Ontario planners using section 37 provisions of the Ontario *Planning Act* will appreciate the clarity of the Miami



Also in Miami Beach, a gorgeous new corner building



Downtown people mover system, completely free

performance code. Defined public benefits program areas are affordable/workforce housing, brownfields, civil/civic support, green buildings, parks and open space and historic preservation. Density and height bonuses are spelled out in eight different zones ranging from eight to 80+ storeys. What is most interesting is that developers make contributions to the appropriate fund based on an annual recommendation by the City Manager and City Commission.

Implications for Toronto

I think Miami's city planners deserve a vote of confidence for advancing a new city-wide alternative to traditional zoning. It will be fascinating to observe how it works in practice. It is ironic that Toronto's planning staff have also laboured for the past six years to bring forward a consolidated zoning by-law encompassing all former zoning by-laws of the seven former municipalities in existence prior to Toronto's amalgamation in 1998. The new zoning by-law is scheduled to go to the Planning and Growth Management Committee in May and to city council for adoption by the summer. While their task was much more difficult and more complicated, I think it is a step in the right direction to finally have a single city-wide zoning by-law. Council should recognize the hard work and extensive public consultation that have taken place and adopt the new by-law as a good base. Perhaps future planners and councillors will make a bigger step to crafting an entirely new approach that spells out performance standards for land use, density, height and parking while leaving fine tuning to a development permit system.

I think planners should be cautious about putting our faith in traditional zoning, as it doesn't really address today's needs, given that it is a two-dimensional tool when what we really need is three or four dimensions that include visual dimensions and time. That would really help citizens to understand an often-misunderstood tool of planning. I hope that future planners are ready to take this challenge on.

Paul Bedford, FCIP, RPP, is contributing editor for Planning Futures. He teaches city and regional planning at the University of Toronto and Ryerson University, is a frequent speaker and writer in addition to serving on the Board of Metrolinx, the National Capital Commission Planning Advisory Committee and Toronto's Waterfront Design Review Panel. He is also a Senior Associate with the Canadian Urban Institute.

Before Miami's Illustrated Principles of Good Planning After



Lining parking garages with well-designed buildings continues the existing neighbourhood fabric



Building frontages are essential in the creation of a pedestrian-oriented streetscape

Communications

Kindling a whole new future

Philippa Campsie



From iPads to Kindles to Kobos . . . the electronic book has arrived. Reading, we keep hearing, will never be the same again. Possibly not.

The promoters and detractors are lining up. There is no shortage of people extolling the virtues of the e-book (searchable text! resizable fonts! no need to keep buying bookshelves, as the device holds a library in itself!). Those who are less enthusiastic (you can see only one page of one book at a time; the devices depend on batteries that can die mid-sentence; reading off a backlit screen is harder and slower than reading off paper) are sometimes dismissed as nostalgic stick-in-the-muds.

Meanwhile, Google and others are working to digitize millions of books and other documents, and increasing amounts of information are posted online, extending the reach of these devices. As this process unfolds, one finds oneself alternating between astonishment (as when I saw an onscreen copy of an obituary notice of an ancestor of mine, published in a small-town New Zealand

newspaper in the 1890s) and frustration (when online documents disappear or newer versions are substituted for older ones without notice).

The jury is still out on whether the brain processes the words in an ebook exactly the same way it processes words on paper. My own experience suggests that there is a difference, but it's not clear whether this is good or bad. Those who are infants now and who will grow up with ebooks may wonder why older people are tied to such an old-fashioned medium as a printed book. "You mean you can't click on a word and get a definition immediately? How on earth did you ever learn new words when you were a child, grandma?" "Never mind, my dear, which ending do you want to choose for your fairy tale today?"

In the end, it's not so much about which device we use. It's about two kinds of reading—the sustained, quiet kind that has given rise to the notion of being "lost in a book," versus the interactive, stimulating version that allows for links to multiple media (click

here to see a short video, hear the correct pronunciation of this word, link to source documents, and so forth) and the engagement of multiple senses. They are different, and the first is getting rarer. For one thing, the pace of life makes it very hard to find the time for leisureed, thoughtful reading. Most of us are reading on the run, or on the bus.

The question is: do we still need the traditional type of one-directional, concentrated reading, or has it has its day? Was it just a stage on the road to a fuller kind of media experience? Does it serve a function that cannot be replaced? We won't know the answers to those questions for years yet.

But those questions lead to further questions. For example, what will happen to the kinds of writing that produce those experiences? On the one hand is the linear, logical, one-thing-after-another writing that tells a story or builds a case. On the other is the kind of writing needed for websites, designed to be read in short bursts in no particular order, with plenty of graphics, embedded links and opportunities to click through. I teach both kinds of writing in my courses, but I am well aware that readers increasingly prefer and expect the second kind, and those expectations are affecting the more conventional types of writing.

Ask most professors, and they will tell you that students are finding it harder and harder to complete traditional reading assignments for university courses (mostly journal articles and book chapters). Nevertheless, professors still produce academic articles and books—they have to in order to keep their jobs, since other forms of expression are not recognized by most tenure committees. And they expect that students will eventually master the techniques of academic writing themselves.

The course I teach at the University of Toronto requires students to produce a sustained piece of writing of about 40 pages that represents a “contribution to the literature” on a particular area of planning work. Students can and do supplement this paper with other media, such as videos or computer models, but essentially the printed document is the record of their achievements.

When those students take a planning job, most will be required to produce conventional written reports of their work. These reports represent the documentary trail of planning

decisions. They must be self-contained (no hyperlinks), and develop an argument that guides the reader through the necessary steps (the reader may not read the document in order, and may skip some parts, but the order must still be logical and all the parts must be

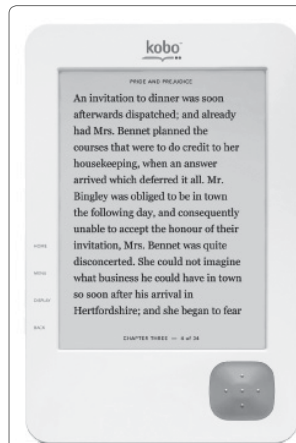
What would a different approach look like? Already, in many workplaces, what used to be written documents are now created and circulated as PowerPoint “decks” that may never exist in a final form suitable for filing or placing in an archive. A considerable amount of public policy is made using a technology that does not favour linear thinking or logical argument.

But it may be that linear thinking is only one way of considering a planning issue. Consider GIS technology, which, when integrated into planning analysis, offers new ways to understand our environment and make informed decisions, using a technology that contributes to spatial thinking and an understanding of patterns and connections. This kind of thinking should be part of planning. It may be that in confining our planning arguments to what can be said in words only, we are forcing planning into a straitjacket that prevents decision makers from seeing those patterns and connections.

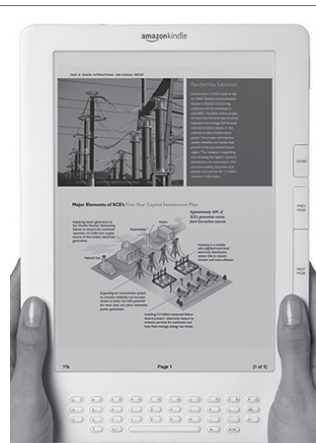
So I don't think the sky is falling. I don't see doom and gloom ahead. And I'm not going to make any dire predictions. I am, however, going to make one open-ended prediction. When reading changes, then writing changes, and when writing changes, then in some way the practice of planning will change, but we do not yet know how or what the consequences will be.

there). At least, this is the model used for now. Other forms are possible, but municipal bureaucracies are slow to change, and the legal requirement for written documentation is still strong.

Philippa Campsie teaches in the planning program of the University of Toronto and is Deputy Editor of the Ontario Planning Journal. She can be reached at pcampsie@istar.ca



Canada's Kobo



Amazon's Kindle



Apple's iPad



Mesopotamia's ur-tablet
(Still operating)

mbpc
Monteith Brown Planning Consultants
Vision • Depth • Commitment

Planning Specialization in:
Municipal • Development • Design • Leisure • Libraries • Culture • Consultation

610 Princess Avenue | London, Ontario | N6B 2B9
 Tel: (519) 686-1300 | Email: mbpc@mbpc.ca

Is Value Capture a Useful Tool in Funding Rapid Transit?

Denis Agar

In Ontario, one of the principal barriers to capital investment in rapid transit is funding. Local governments are not delegated the ability to raise the funds they would need for such large projects, and they are usually obliged to seek provincial and federal dollars, leading to delays, political manipulation, and added cost. In many cases, municipalities must commit to funding up to half of a project without the means to earn supplemental revenue with instruments like sales taxes and road tolls. If a transit project does finally receive funding, this can lead to a windfall for those who own land near the proposed transit line, and little financial benefit for all other taxpayers. Ontario needs a faster, more efficient funding framework for rapid transit.

Value capture is the term for a series of policy instruments that attempt to literally capture the value that a project creates, and to use those funds to pay for the project itself. These measures can be simple, equitable, and can help make projects a reality.

Historically, the relationship between landowners and transit providers has been very close. When the first private-sector streetcar lines were being pushed past the frontiers of the North American city into undeveloped land, it was the developers who ensured the financial viability of the line. With the ascent of the automobile, developers began building roads instead of streetcars and the responsibility to fund transit fell entirely upon governments. In 1952, innovative legislators in California came up with an instrument called Tax Increment Financing (TIF) that was meant to spur the redevelopment of blighted areas, but could just as easily be applied to any large capital projects. It allows municipalities to harness the future rise in the value of land in order to make the investment that creates that rise. Usually, an area is defined around the transit line in which any increases in tax assessment go towards the transit project. Since its inception, tax increment financing has been enabled in 49 states as well as in countless

countries around the world, and in several provinces. The first Canadian example was in Calgary in 2005. The city incurred \$75 million of debt on the servicing and remediation of a brownfield; the debt will be serviced entirely by future tax revenues over 20 years.

There are two important impacts of this form of financing. The first is that it reduces the temptation to speculate on land while leaving it vacant. TIF does this by raising the fixed costs of owning an inactive property.

Enabling legislation passed in Ontario in 2006 expressly states that the instrument is available for use on “the construction of a municipal public transit facility.” Unfortunately, the province has not released



New development on the waterfront could help fund needed transit

a general regulation explaining the specifics of using TIF, and no projects can proceed until it is available. Despite this, the Ministry of Municipal Affairs and Housing’s website still states that two pilot projects will be initiated: an unspecified Toronto subway expansion into York Region, and a brownfield redevelopment on Toronto’s Waterfront.

Although Tax Increment Financing is the most well-known type of value capture, there are many others at policymakers’ disposal. Depending on engineering decisions about how the transit project is built, land may need to be expropriated around the line. Once construction is finished, this offers governments the option of selling or renting or leasing those lands. Hong Kong, for example,

provides no subsidy to the corporation that operates its subway. Instead, the corporation derives income from the rental of lands in station areas. As well as providing a source of income, this approach guarantees that intensification occurs around stations, which supports increased ridership.

The same pattern of land rental occurred with the development of the Toronto subway. The Hudson Bay Centre at 2 Bloor Street East was developed in this fashion. By 1979, the Toronto Transit Commission was earning \$500,000 annually (\$1.4 million in 2010 dollars) from this arrangement and \$2.7 million (\$7.4 million 2010 dollars) was going to the city in property taxes annually. The developer leased additional land from the TTC to allow full development of the site.

In Seattle, half of the South Lake Union Streetcar project was paid for with a value capture instrument called a special assessment. This is a specific tax that is levied on lands that will stand to benefit from a capital investment. It was approved in a referendum by over 60% of the property owners, which is the minimum necessary, as dictated by Washington state law. Although interesting, this type of finance instrument has not explicitly been permitted by the Ontario Legislature.

Another way of capturing the increase in value of land around new transit lines is to levy a one-time fee on any new development. Although simple to administer, the fee can be difficult to determine equitably, and may actually drive away investment. Whereas tax increment financing encourages development around transit by raising the cost of leaving land vacant, a developer impact fee may discourage development by significantly raising the cost of breaking ground.

Economic stimulus funding has brought a great windfall to Ontario’s proposed rapid transit projects. Funding has been secured for rapid transit projects in Toronto, Ottawa, Mississauga, Waterloo Region, and York Region. Unfortunately, there are many other proposed lines that are gravely needed but have not received adequate funding. The City of Toronto, for example, has expressed interest in a Downtown Relief Subway Line, which would serve neighbourhoods east and west of the city’s core as well as reduce congestion at the system’s busiest stations. It would undoubtedly be an expensive undertaking, but not outside the realm of possibility. Proposed

routings pass through areas with immense redevelopment opportunity—places like the West Donlands and the Portlands, which are destined to become vital, urbane waterfront neighbourhoods. Value capture would create a symbiotic relationship between the development of the subway and the development of the waterfront; a feedback loop that builds healthy, walkable communities. They are a valuable tool in the policy arsenal of a government that is committed to sustainable growth, and they can help give Ontario municipalities power to make the investments necessary to keep the city moving.

Denis Agar is completing his third year at Ryerson University's School of Urban and Regional Planning. He is a regular contributor on the student planning blog (PlanningPool.com). For more information on Value Capture

Finance, Denis can be contacted by email (denis@planningpool.com).

Dennis Kar, MCIP, RPP, is an associate with Dillon Consulting. He is the Ontario Planning Journal's contributing editor for transportation.



Dennis Kar

Heritage

New Support for Strong Heritage Conservation Districts

Paula Wubbenhorst

The Architectural Conservancy of Ontario (ACO) has just released *Heritage Districts Work!*—a publication that stresses the value of “strong” heritage districts. The report summarizes an investigation of 32 established heritage conservation districts in Ontario. The study was conducted by ACO, in partnership with heritage groups and the University of Waterloo’s Heritage Resource Centre (HRC).

Municipalities have been designating heritage conservation districts since 1980 under the *Ontario Heritage Act*. A district covers more than a single property, offering protection from demolition and alterations that are unsympathetic to the district character. More than simply extending beyond a single parcel of land, heritage conservation districts regulate the spaces in between, such as streets, sidewalks and natural areas. Of course, being tied to property,

all of these elements can be individually designated. Heritage conservation districts allow for a holistic approach to managing change. This can include maintaining views and vistas.

Heritage Districts Work! picks up on Robert Shipley’s examination of designated heritage property values. (Shipley is Chair of the HRC.) The landmark 1998 report found that property values in heritage conservation districts were consistent with or above the community average. This 2009 summary goes even further. Based on figures to 2007, the analysis demonstrates that heritage conservation district property values “generally rise more consistently than surrounding areas.” Moreover, “in many cases,” property values “resisted real estate downturns.”

The research compared property values with those in the surrounding square kilometre. Accordingly, though this is a fair approach

PLANNERS
URBAN DESIGNERS
LANDSCAPE ARCHITECTS

www.gspgroup.ca

SHAPING GREAT COMMUNITIES

KITCHENER 72 Victoria St. S., Suite 201 P 519.569.8883

GROUP
Transportation
Consultants

Movement in Urban Environments

BA Consulting Group Ltd.
45 St. Clair Avenue West, Suite 300 Toronto, Ontario M4V 1K9
416.961.7110(tel) 416.961.9807(fax) www.bagroup.com

Construction Monitoring
Physical Assessments
Informant Interviews
Site Excavations

AMICK Consultants Limited

Serving Ontario's Development Community with Efficient and Client Oriented Archaeological Services and Solutions Since 1996.

www.amick.ca

Background Research
Cemetery Closures
Expert Testimony
Test Excavations

NEW! LAKELANDS
District Office
tel: 705-534-1546
fax: 705-534-7855

SOUTHWESTERN
District Office
tel: 519-432-4435
fax: 519-432-6697

Anthony Usher Planning Consultant

*Practical professional services in
land, resource, recreation, and tourism planning*

146 Laird Drive, Suite 105
Toronto M4G 3V7
(416) 425-5964
auplan@bellnet.ca

**DESIGN
PLAN
SERVICES**
TOWN PLANNING
CONSULTANTS

900 The East Mall, Suite 100
Toronto, ON M9B 6K2
Tel: 416.626.5445
Fax: 416.620.6665
Email: Mail@DesignPlan.ca
Web: www.DesignPlan.ca

*Specializing in Community
and Neighbourhood Design*

considering the disparity of property values between neighbourhoods, it does not take into account the fact that the areas surrounding heritage conservation districts may be reaping some of the district's positive real estate value. The rise in property values in heritage conservation districts may be even greater.

In addition to property value, the project measured resident satisfaction. Poll results illustrate that 77% of people living or owning property in heritage conservation districts are satisfied or extremely satisfied; 16% are neutral. Only 7% are dissatisfied or very dissatisfied. The "overwhelming" rate of satisfaction is likely attributable to the stability offered by heritage conservation districts.

Perhaps most interesting are the findings regarding heritage conservation district rules. The analysis revealed that: "consistent enforcement results in higher property value increases."

Moreover, "there were more complaints that the rules were not strict enough than there were complaints that rules were too strict."

The authors recommend the creation of more heritage conservation districts and provincial funding to update heritage conservation district plans. They also cite the need for increased public awareness: "Efforts should be made to better inform residents of the benefits of District Designation." This is critical.

As Ontario's communities mature, this report is a "must-read" for all planners, even if they have no direct involvement with heritage issues. District designation is not limited to obvious examples such as Niagara-on-the-Lake. When applied with consistent zoning bylaws and other planning tools, many communities, such as war time and post-war housing, have their own special character that can be preserved with district designation. *Heritage Districts Work!* is an essential document for anyone engaged in conserving neighbourhood character.

Heritage Districts Work! is available from the Architectural Conservancy of Ontario (www.archconserv.ca) and the University of Waterloo's Heritage Resource Centre (www.fes.uwaterloo.ca/research/hrc).

Paula Wubbenhorst is the Heritage Coordinator with the City of Mississauga. See also Michael Seaman's report on Oakville's heritage district on page 13.



Oakville register helps plan ahead

Law and Order

Caution to Planners Giving Evidence as Experts— A View from a Lawyer



Stan Stein

A ruling last year by Justice Ellen Macdonald of the Ontario Superior Court of Justice is relevant to land use planners who are called upon to give "expert evidence" at Ontario Municipal Board hearings or other proceedings involving oral or written testimony (for example, in affidavits for OMB or Court motions).

Consideration of the role of an expert witness came up in a mid-trial ruling in a case in the Superior Court of Justice—Ontario (*Alfano et al v. Piersanti et al*, March 18, 2009). The ruling involves admissibility into evidence of reports prepared by a forensic accountant and his associate.

The Role of the Expert

The consultants were acknowledged to be very experienced, and were qualified to give opinions in matters such as those in issue in the case. However, the Plaintiffs' counsel challenged the impartiality and independence of two reports, alleging that the consultants had assumed the role of advocates for the defendants.

Justice Macdonald accepted the following statement of Bellamy J. in *Eastern Power Ltd. v. Ontario Electrical Financial Corp.* 2008 Carswell Ont. 5635 (S.C.J.): "The purpose of expert evidence is to assist the trier of fact to understand evidence outside of his or her range of experience so that a correct conclusion can be reached: *R. v. D. (D.)* [2000] 2 S.C.C. It is commonly recognized that, in order to be of assistance to the trier of fact, experts must remain objective . . ."

In her ruling, Justice Macdonald went on to say: "I accept this as a correct statement of the role of an expert. The court expects objectivity on the part of an expert. In other words, he or she cannot 'buy into' the theory of one side of the case to the exclusion of the other side. To do so, poses the danger that could taint the court's understanding of the issues that must be decided with impartiality and fairness to both sides. The fundamental principle in cases involving qualifications of experts is that the expert, although retained by the clients, assists the court. If it becomes apparent that an expert has adhered to and promoted the theory of the case being

advocated by either Plaintiffs or Defendants, he or she becomes less reliable and is not an expert in the way that the role has been defined in the recent and well known jurisprudence."

Further, Justice Macdonald quoted the decision of Justice Farley in *Bank of Montreal v. Citak*, 104 A.C.W.S. (3d) 100, where he said the following: "Experts must be neutral and objective; to the extent that they are not, they are not properly qualified to give expert opinions (citations deleted). To the extent that Mr. Hill has merely used the view of Mr. Citak as to the state of affairs and based his opinion on these views, Mr. Hill is building on a foundation of sand, not rock."

In the case at hand, the Plaintiffs' counsel took the position that the two reports were "replete on every page with not only findings of fact, findings of credibility, but conclusions as to what the evidence is literally and what legal conclusions should be, not just factual conclusions." The Court agreed and found that the evidence of the consultant was "committed to advancing the theory of the case of his client" and this affected the reliability of his evidence.

Analysis of the role of an expert has also taken place in other cases. For example, the Court has expressed concern that expert witnesses should not become "hired guns" for their clients.

Admission of Expert's Reports (and testimony) into Evidence

The next question addressed by the Court was how to proceed where a party was seeking admission of evidence contrary to the principles outlined above. The issue boils down to whether the offending expert evidence should be admitted as evidence at the hearing, and then allowing the Court to compensate for any of its weaknesses by attaching less weight to the opinion. The Court relied upon decisions of the Supreme Court of Canada that found that this approach was an abdication of the proper functioning of a trial judge.

The Supreme Court of Canada had stated that: "The court has emphasized that the trial judge should take seriously the role of 'gate-keeper.' The admissibility of the expert evidence should be scrutinized at the time it is

proffered, and not allowed too easy an entry on the basis that all of the frailties could go at the end of the day to weight rather than admissibility.”

The courts have thus identified a certain tension between efforts by Defendant’s counsel to lead a complete evidentiary record, while struggling against efforts by opposing counsel to ensure a careful and consistent application of the rules of evidence and exclusion of evidence that should not be admitted.

Weight of Evidence

Even if the objectionable aspects are cut back to simply being a matter of “weight,” the lessons from the Ontario Superior Court are relevant to ensuring admissibility, credibility, and respect for the professionalism of the expert witness.

Justice Macdonald stated: “An expert should exercise extreme caution on analyzing the facts that support his or her client’s position. . . . It was very apparent that Mr. A. was committed to advancing the theory of the case of his client, thereby assuming the role of an advocate . . . Mr. A. became a spokesperson for [the Plaintiffs] and, in doing so, did not complete independent verification of key issues in accordance with the standards that are expected of an expert. The key issues, crucial to the determination of this case, if determined on the basis of Mr. A’s reports would be tainted by the lack of impartiality that is clearly apparent from the content of e-mails [with the Plaintiffs].”

In the result, Justice Macdonald determined that the expert was not independent and impartial, and disqualified him as an expert.

Experts at the OMB

The OMB has made similar comments on the role of expert witnesses. In The Matter of Alfa Aggregates et al. (Board file Z900257 et al), the Board had the following comments regarding the conduct of a witness called to give expert evidence: “Always, it is expected that any witness giving opinion evidence



Sorensen Gravely Lowes Planning Associates Inc.

509 Davenport Rd. Toronto, ON M4V 1B8
Tel: 416.923.6630 | Fax: 416.923.6916

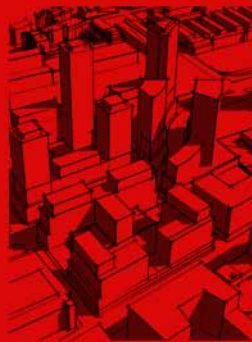
growth management | policy formulation | zoning by-laws
land development & redevelopment | commercial planning | expert testimony

The Planning Partnership

Land Use Planning • Urban Design • Landscape Architecture • Communications

www.planpart.ca

1255 Bay Street, Suite 201 • Toronto, ON M5R 2A9
t 416.975.1556 f 416.975.1580 e info@planpart.ca



BOUSFIELDS INC.

LAND USE PLANNING

URBAN DESIGN

COMMUNITY DESIGN

PROJECT MANAGEMENT

ONTARIO MUNICIPAL
BOARD HEARINGS

3 Church Street, Suite 200
Toronto, Ontario M5E 1M2
t 416.947.9744
f 416.947.0781
bousfields@bousfields.ca

www.bousfields.ca

Creating Inclusive Environments for All

SPH Planning & Consulting

- Accessibility Planning
- Design Review / Compliance
- Facility Audits
- Facility Accessibility Upgrades
- Universal Design

www.sph-planning-consulting.ca

Ph: (416) 304-0790 Fax: (416) 304-0734

URBAN STRATEGIES INC.

PLANNING & URBAN DESIGN

197 Spadina Avenue, Suite 600
Toronto, ON Canada M5T2C8
tel 416 340 9004 fax 416 340 8400
www.urbanstrategies.com



Infrastructure Communities
Environment Facilities

Offices Across Canada and International
235 Yorkland Blvd., Toronto, Ontario
416.229.4646

www.dillon.ca

provides his or her best, most well thought out and truthful evidence.” Thus, there should be no fear that a witness before the Board or a consultant advising client and public before a hearing who is truly ethical and professional in outlook, will give different opinions suited for different occasions and clients. It is the responsibility of any professional person in the consulting field to ensure that this is the case. . . . And were it otherwise, the entire matter of opinion evidence offered to the Board by a host of witnesses would be a mockery; the consultant would be reduced to a mere ‘hired gun.’”

However, the rules on admissibility of evidence appear to be more relaxed. Specifically, section 15 of the Statutory Powers Procedure Act allows the tribunal to admit “any oral testimony” and “any document or other thing.” This wide scope of admissibility is subject to exclusion of testimony or documents that would offend the rules related to “privilege” under the law of evidence or that are otherwise not admissible under a particular statute. In other words, the SPPA seems to authorize some relaxation of the “gatekeeper” role of the Board and relies on attaching less weight to the opinions of the witness who advances or supports tainted evidence.

An obvious difficulty that arises is that once evidence is admitted, it is difficult for an

adjudicator to distil the weak evidence and apply a notional discount to its value while preparing the Decision.

The admission into evidence of challenged reports or tainted testimony may help the tribunal avoid uncomfortable arguments about the independence of the witness and the quality or reliability of the work. However, once admitted and left to “weight,” this evidence sits under a cloud of uncertainty and may lead to increasingly difficult situations as the hearing unfolds. This will be of particular concern if subsequent witnesses rely upon that evidence, without knowing that its value has already been crushed into the sands referred to by Justice Farley, unable to support the rest of the case.

Overall, the conclusion from this recent decision in the Superior Court is that experts should strive to meet high standards of objectivity, and thereby avoid any allegations that they have become advocates for their clients and that their evidence is therefore tainted.

Another relevant case to the same point is *Re City of London OPA 162, 163, and 164*, 39 O.M.B.R. 500 at page 507.

Stan Stein is associated with the law firm of Osler, Hoskin & Harcourt LLP. He is an occasional contributor to the Law and Order column.

Design&Planning&Architecture&

&Co
SweeneySterlingFinlayson&Co

Mark Sterling
DAA, MCIP, RPP

Chris Hardwicke
BArch, BES, BFA

Christian Huggett
MCIP, RPP

www.andco.com
+1 416 971 6252

Thinking People
Sharing Knowledge
Building Life

- Planning
- Urban Design
- Market & Real Estate Research
- Financial Feasibility
- Municipal Finance
- Transport Systems
- Municipal Engineering

IBI Group
5th Floor - 230 Richmond Street West
Toronto, ON M5V 1V6 Canada
tel: 416 596 1930 fax: 416 596 0644

Ontario Offices:

Ottawa	613.241.3300	London	519.472.7328
Hamilton	905.546.1010	Mississauga	905.890.3550
Kingston	613.531.4440	Richmond Hill	905.763.2322
Kitchener	519.745.9455	Waterloo	519.585.2255


63 Offices located in major centres across
Canada, United States, Europe, Middle East
and Asia

Canada 26 | USA 22 | International 15



www.ibigroup.com

**Which part of the word
'Compliance' don't
you understand?**



LARKIN +
land use planners

1168 Kingdale Road
Newmarket, ON
L3Y 4W1

Tel: (905) 895-0554
Fax: (905) 895-1817
Toll Free: 1-888-854-0044

www.larkinassociates.com

Wrestling with Moses

How Jane Jacobs Took on America's Master Builder and Transformed the American City

City builders of different kinds

Review by Martin Rendl

JANE JACOBS is perhaps the one person in the last 50 years that the public and media most often equate with city planning. But how did a housewife from Scranton with no training or accreditation in planning come to permanently change the way we think about cities?

Anthony Flint's book provides part of the answer in this chronicle of Jane Jacobs' 34 years in New York City. While living in Greenwich Village Jacobs wrote *The Death and Life of Great American Cities*, her 1961 wake up call to planners. This was also when her community activism with other citizens stopped three highway and urban renewal projects that New York's top power broker, Robert Moses, was planning for her neighbourhood. By the time she moved to Toronto in 1968, Jacobs was an established urban writer and activist.

Flint's book tells the story of how New York shaped Jacobs the writer and how Jacobs the activist in turn helped shape New York.

Jacobs' lifelong interest in cities started in 1934 when she arrived in New York from Pennsylvania. Self-taught about cities, Jacobs drew her image of the city from her real life experiences in New York. She did not rely on

academic planning theories or the civic improvement visions of modernists like Le Corbusier. Instead Jacobs observed how the city worked on her walks in New York and by looking out her window in Greenwich Village onto Hudson Street from her typewriter. While Jacobs found cities to be complex human ecosystems, she concluded there were simple relationships and behaviours that made them work, if you just took the time to look and understand them.

Applying the filter of common sense to the city she saw, Jacobs drew inferences from what she observed to arrive at her principles for a successful city. These include the importance of streets, planning for more diversity, density, and dynamism as well as recognizing that cities grow and prosper organically. Jacobs made complex ideas about how cities work accessible. Everyone could experience and understand her ideas. No need for post-graduate training.

Jacobs began to write articles on New York and urban life for magazines and later became a writer for *The Architectural Forum*.

In 1954 her editor sent Jacobs to Philadelphia to report on urban renewal. Flint describes the tour of urban renewal areas the city's chief planner, Edmund Bacon, gave Jacobs.

Their first stop was an old neighbourhood

about to be cleared, but full of people on the streets and vibrant with life. Bacon told Jacobs this was an example of the blight cities needed to eliminate. The next street on the tour had been redeveloped and contained just one boy kicking a tire. When Jacobs asked where the people were, Bacon instead pointed out to her the beautiful vista and view corridor that had been created.

This experience was a turning point for Jacobs. Based on what she saw happening in cities, she began to increasingly question if urban renewal was really improving places like New York.

As Bacon had demonstrated, Jacobs saw that planners wanted to bring order to the apparent chaos of a city or neighbourhood by converting it into a work of art. By following this flawed vision of the city and not understanding how it really grows, Jacobs wrote that planners were making "the mistake of substituting art for life." Instead of stopping the decline of cities through urban renewal, Jacobs warned that planners were laying waste to the very communities they were trying to help.

Author: Anthony Flint; Pages: 231; Year: 2009; Publisher: Random House; Price: \$32.00



www.lgl.com
Since 1971

- Environmental Assessment and Planning
- Aquatic, Terrestrial, Wetland and Marine Studies
- Watershed Restoration and Natural Channel Design
- GIS, GPS and Remote Sensing
- Environmental Permitting, Inspections and Monitoring
- Site and Route Selection
- Airport/Landfill Bird/Wildlife Management and Control

KING CITY—HEAD OFFICE

22 Fisher St., PO Box 280
King City, Ontario, L7B 1A6
T 905-833-1244
F 905-833-1255
kingcity@lgl.com

BURLINGTON

3365 Harvester Rd, Ground Floor
Burlington, Ontario, L4N 3N2
T 905-333-1667
F 905-333-2660
burlington@lgl.com



Over 50 years of
Award Winning Service

Markham Toronto Hamilton
Kitchener-Waterloo London
Niagara Falls Kingston Ottawa
Edmonton Calgary Vancouver Victoria

www.delcan.com

**ONTARIO
PROFESSIONAL
PLANNERS
INSTITUTE**

234 Eglinton Avenue East
Suite 201
Toronto, Ontario
M4P 1K5

**(Return
Requested)**

**Canadian Publications Mail
Product Sales Agreement No. 40011430**

Jacobs wrote in 1958 that by destroying everything that was vital about cities, urban renewal would create downtowns with all the attributes of a "dignified cemetery." Today we see proof of this in the many struggling downtowns that are still trying to undo the urban renewal harm of past decades.

While Jacobs' insights about livable neighbourhoods and cities are accepted as commonplace today, it was not always so. Jacobs starts *The Death and Life of Great American Cities* with the explosive line: "This book is an attack on current city planning and rebuilding." Little surprise that the leaders of the planning establishment were quick to

dismiss Jacobs as a "sloppy novice." They feared her book would be "grabbed by screwballs and reactionaries and used to fight civic improvement."

The main focus of Flint's book is how Jacob's opposition to urban renewal led her to join her neighbours in organizing the community to stop Robert Moses' top-down plans to push a four-lane road through Washington Square Park, bulldoze the West Village as part of urban renewal, and construct the Mid-Manhattan Expressway through SoHo, Little Italy, Chinatown and the Lower East Side.

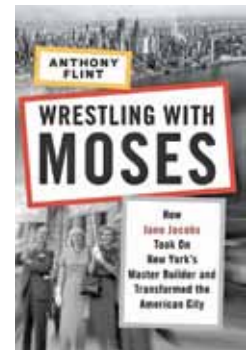
Flint correctly places Jacobs' community activism within the larger context of the

citizen protest movements of the period.

Flint brilliantly describes the political and cultural times of 1950s and 60s New York. Wagner and Rockefeller ran New York. Kerouac, Pollock, Dylan and others energized Greenwich Village. Robert Moses, not used to people getting in the way of his plans, didn't hear "that the times they were a-changing."

Why is it not surprising to learn that Moses drew some of his inspiration for the New York of the future from Walt Disney? Moses admired Disney's flair for theatrics and big dreams. In charge of the 1964 World's Fair, Moses asked Disney to build four exhibitions including one called Progressland.

Both men made no small plans. By the end of his career, Moses with his "scythe of progress" had built 13 bridges, two tunnels, cleared 300 acres and constructed 28,400 new apartments, as well as Lincoln Center, the UN and Shea Stadium. At one time Moses held 12 different city and state positions simultaneously. (Editor's note: Moses also built many parks and recreational facilities.)



In his Epilogue, Flint describes the lives of Moses and Jacobs after she left New York in 1968. In about two pages he summarizes Jacobs' 38 years in Toronto, reducing them to: she helped stop the Spadina Expressway and she wrote six more books. While Alice Alexiou's book *Jane Jacobs: Urban Visionary* contains more about Jacobs' Toronto years, the complete Toronto story waits to be written.

Jane Jacobs shunned the limelight and reportedly did not authorize a biography. As Flint and other authors begin to document the life of Jane Jacobs, their books help us understand how her life shaped her ideas. *Wrestling with Moses* tells the story of a particularly important and defining period in the evolution of urban thinking and community activism. Jane Jacobs' legacy endures in planning today, a testament to the power of one with good ideas.

Martin Rendl, MCIP, RPP, is principal of his own consulting practice based in Toronto. Martin has served on OPPI Council and has also contributed articles to the Ontario Planning Journal, including a cover story analyzing an APA conference in Seattle.

David Aston, MCIP, RPP, is contributing editor for In Print and an associate with MHBC Planning in Kitchener. He can be reached at daston@mhbcplanning.com



2000 Argenta Road,
Plaza 1, Suite 203
Mississauga, Ontario
L5N 1P7

P: 905-826-4044
F: 905-826-4940

Consulting Engineers specializing in
Noise, Vibration & Acoustics

Offering sound acoustical engineering services to planners, developers, municipalities, and builders.

- Noise and vibration control in land use planning
- Noise and vibration studies, residential and commercial
- Building acoustics and noise control
- Expert witness testimony
- Peer review services
- Land use compatibility assessments

www.hgcengineering.com

HOWE GASTMEIER CHAPNIK LIMITED



SUSTAINABLE
COMMUNITIES
TRANSPORTATION
BUILDINGS
INFRASTRUCTURE

Planning & Environmental Design | Transportation Planning:
100 Commerce Valley Dr. W., Thornhill, ON L3T 0A1
t: 905.882.1100 | f: 905.882.0055
www.mmm.ca

