

# the NIAGARA ESCARPMENT FOUNDATION Bulletin

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## **Studies Highlight Impacts of Niagara Escarpment Plan**

*by Richard Murzin, Communications Manager,  
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Two studies undertaken for the Niagara Escarpment Foundation (NEF) and the Coalition on the Niagara Escarpment (CONE) reveal compelling facts about the impact of the Niagara Escarpment Plan since its approval in 1985. One study compares property values within and outside the plan area in Dufferin County; the other looks at the effectiveness of the plan in protecting Georgian Bay shoreline in the Municipality of Northern Bruce Peninsula.

Both studies were researched and written by Alan Ernest, an accredited real estate appraiser and land acquisition specialist with more than 20 years of experience on the escarpment. The research was first presented at the Niagara Escarpment Commission's (NEC's) Leading Edge conference in March 2004.

The Dufferin County property values study shows that average values inside the Niagara Escarpment Plan Area were significantly higher than outside the plan – for properties over 50 acres, a whopping 32 percent higher. For rural properties from five to 15 acres, those within the plan were selling at a premium of up to 12.7 percent.

The study notes that the Bruce Trail, public parks and the escarpment plan itself were used as part of real estate marketing. One ad even noted that a property was “located within NEC jurisdiction for added protection.” This is remarkable in an area once legendary in times long past for the ferocity of its public opposition to the plan.

When it was being crafted in the late 1970s, the plan was often vigorously derided as “expropriation without compensation.” That’s far different from today, when the natural and recreational amenities that the plan protects are more likely to be promoted as sales features, the NEF/ CONE study says.

Ernest rightly excluded properties in minor urban centres or those zoned to allow subdivisions or other intensive development. The study reflects property values in the countryside as opposed to the more aggressive, speculative nature of the real estate industry at play around settlement areas.

Always even-handed, the study also notes that its findings are limited to the Dufferin County study area and cannot be extended to the entire Niagara Escarpment Plan Area.

“A larger study of a full sample of study areas along the length of the escarpment would be a major undertaking, but one that is worthy of future research,” wrote Ernest.

*The Niagara Escarpment Foundation (NEF) was formed in 2001 by the Coalition on the Niagara Escarpment to undertake research and educational programs to promote awareness of the Niagara Escarpment.*

### *In this issue . . .*

In 2003, with the support of the George Cedric Metcalf Charitable Foundation and the McLean Foundation, NEF contracted with land use planner Alan Ernest to examine the effectiveness of the Niagara Escarpment Plan (NEP). Alan’s conclusions are that the NEP works. Its smart growth principles and ecosystem planning approach conserve nature and at the same time allow people to live beside it. His studies can be found on our website ([www.nefoundation.org](http://www.nefoundation.org)). The resulting State of the Escarpment Report, published by the Coalition on the Niagara Escarpment (CONE) in 2004, is also on-line on CONE’s website ([www.niagaraescarpment.org](http://www.niagaraescarpment.org)).

For this newsletter, we wanted to reflect upon that earlier work and consider the possibilities for further research on escarpment land use planning. Accordingly, we asked Alan Ernest for his comments, and we asked Richard Murzin, a senior member of the Niagara Escarpment Commission’s staff and Robert Boraks, a former Niagara Escarpment Commissioner, to comment on the reports. Their thought-provoking responses appear within.

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That recommendation mirrors comments surrounding the new Niagara Escarpment Plan under consideration by the Minister of Natural Resources as well as the NEC’s 2002 *Niagara Escarpment Biosphere Reserve Cooperation Plan*. Both acknowledge the importance of monitoring the performance of the Niagara Escarpment Plan. Property value is part of the evolving dialogue on the valuation of natural resources and processes, sometimes referred to as *natural capital*, and could be considered one gauge of plan performance.

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## Researching the State of the Niagara Escarpment:

### *Lessons Learned and Potential Next Steps* by Alan Ernest

In 2003-04, I had the pleasure of completing four research studies for the Coalition on the Niagara Escarpment (CONE) and the Niagara Escarpment Foundation (NEF) aimed at gauging the effectiveness of the Niagara Escarpment Plan (NEP) in achieving its objectives. Now, a year after completing the last of the studies, I am pleased to be able to offer a few thoughts on what was learned and what opportunities there are for future research. Richard Murzin discusses the first two studies (above), so I will discuss only the latter two.

#### *Maintaining and Enhancing Natural Corridors*

The title of my third study was *An Analysis of the Effectiveness of the Niagara Escarpment Plan in Maintaining and Enhancing Natural Corridors and Linkages in the Township of Mulmur, Dufferin County, Ontario*. The Niagara Escarpment Plan was one of the first land use plans to recognize the importance not only of natural areas, but also of the connections between them. As with the *Land Values* study, a comparison of adjacent areas within and outside the NEP Area was utilized. Mulmur Township was chosen in part due to the presence of major natural corridors associated with the Boyne River and Pine River valleys and the fact that these crossed the NEP Area and extended beyond it.

Changes in forest cover between 1974 and 2000 were examined, as were other factors that affect the health of natural corridors and the quality of wildlife habitat they provide. Forest cover increased by 21.5% within the NEP Area as opposed to only 9.4% in nearby areas outside the NEP Area. Increases in forest cover were especially significant within the linkage areas connecting the Pine River and Boyne River valleys in the NEP Area, and gaps and fragmentation of forested areas within the NEP Area were significantly reduced. New development within the NEP Area has, to a very large extent, been located to avoid fragmentation of natural areas and corridors, while this is less consistently the case outside the NEP Area. There were very few losses of forest cover within the NEP Area – totaling only about 10 acres. Outside the NEP Area, 236 acres of forest cover were lost.

The study's findings indicate that the NEP has been successful in protecting and enhancing natural areas and corridors and linkages, although there are still many parts of the study area within the NEP Area where greater connectivity of natural areas is desirable.

One concern that arose out of the research is that most of the areas that were reforested during the study period were monoculture conifer plantations that are

not representative of the natural forest cover of the area. Such plantations are intended to serve as a preliminary stage in reforestation, with active management required to thin the plantation and allow an understorey of hardwoods to grow and eventually displace the conifers. However, many of the plantation areas in the study area have received little or no thinning or other management and, as a result, provide very little habitat value compared with natural forest communities; they may even provide obstacles to the movement of some species.

This situation presents an opportunity to initiate programs to both encourage and support landowners in actively managing plantation areas to facilitate a transition to more natural and diverse forest communities that will further strengthen ecological linkages and corridors. Government agencies, NGOs and forestry consultants and companies could all contribute to achieving these goals. The use of Geographic Information Systems (GIS) technology could be a powerful tool in advancing such undertakings, especially if coupled with field assessments by qualified ecologists. If successful, such programs could significantly enhance the level of ecological connectivity along the escarpment, resulting in a range of benefits from healthier and more stable wildlife populations to improved water quality and reduced erosion.

Integrating changes in land use and ecology into the monitoring program for the escarpment and considering such information as part of the planning and development control process is a challenge that I hope the Niagara Escarpment Commission will accept as part of its mandate and one for which the province should be prepared to provide funding support.

#### *Urban Expansion*

The final study that I undertook examined how proposals to expand Urban Areas and Minor Urban Centres within the NEP Area had been dealt with under the NEP and by administrative tribunals, such as the Ontario Municipal Board (OMB) and the Joint Board, and by the provincial Cabinet. I reviewed the 28 applications to amend the NEP that have involved proposals to expand urban areas. For the 15 applications that had gone through the process to a final decision, I analysed to what extent those decisions reflected the specific policies and objectives of the NEP and noted the positions taken by NEC staff, the commission itself and municipal governments through the process.

My review found that NEC staff have consistently recommended positions that are consistent with NEP policies and that, with a few exceptions, the commission itself has supported the staff recommendations. Municipalities, however, frequently adopted positions in favour of urban expansion even where such proposals obviously conflicted with the Niagara Escarpment Plan. The OMB and the Joint Board have also failed to consistently respect the provisions and primacy of the NEP, especially between 1995 and 2003. There have also been similar failings by the Minister and Cabinet. As a result, the scale

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and impact of approved urban expansion proposals on the escarpment environment have gone far beyond the limits set out in the objectives and policies of the NEP.

In reviewing the decisions made to date, I found many obstacles to controlling urban expansion on the escarpment. Most obvious is the fact that municipalities, administrative tribunals and even Cabinet have failed to consistently respect the provisions and primacy of the NEP. A number of decisions issued by the OMB and OMB-dominated Joint Boards have been particularly blatant in their disregard for the provisions of the NEP. The current provincial government has taken some modest steps to address problems with an apparent pro-development bias at the OMB, but it is not yet clear whether these steps will lead to a greater respect for the NEP. Failing such increased respect at the OMB, *Planning Act* changes that would refer all Niagara Escarpment related issues to the Environmental Review Tribunal, instead of the OMB or a Joint Board, or even an entirely new process and forum, should be considered.

Two issues that came up in several amendment proposals were that of the need for urban expansion and the consideration of alternatives. While the NEP requires that justification be provided for any proposed amendment to the plan, there is no specific requirement that need or alternatives be addressed in the justification. A number of OMB and Joint Board decisions to allow urban expansions have rejected arguments by NEC staff and others that questions of need or alternatives were relevant. Clearly, the lack of specific provisions addressing these issues is a weakness in the NEP that limits its effectiveness in meeting objectives for Urban Areas and Minor Urban Centres. The NEC should consider recommending an amendment to the *Niagara Escarpment Planning and Development Act* to specifically require need and alternatives to be considered for any amendments to the Niagara Escarpment Plan.

Another problematic issue in some of the hearings has been the fact that the NEP does not define the brow, slope or toe of the escarpment. This leaves experts on both sides of an issue to fight the matter out at hearings. Consideration should be given to establishing clearer criteria on how these features should be defined, either defining them for the entire escarpment or, more practically, giving the NEC the authority to apply the criteria to define the brow, toe and slope on a site-specific basis. This authority would be parallel to that given to conservation authorities for establishing regulated areas and fill lines.

### Conclusion

My research indicates that the Niagara Escarpment Plan has, for the most part, worked – and worked well. The major failing in the area of controlling urban expansion is primarily due not to a failure of the NEP, but rather to a failure of municipalities, administrative tribunals and political leaders to respect the plan. I thank CONE and

the NEF for having the vision to sponsor research that provides a meaningful assessment of the successes and shortcomings of the Niagara Escarpment Plan. I thank CONE for remaining an ever-vigilant watchdog on the escarpment. I hope my comments suggest some new opportunities for CONE and others to contribute to protecting and enhancing the Niagara Escarpment.

### Impacts...

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A second study commissioned by the NEF and CONE concludes that, with few exceptions, the plan has been “highly effective in protecting undeveloped shoreline areas, providing much stronger protection for ecologically significant shoreline areas than municipal and other provincial controls.”

Ernest used aerial photography from 1974, municipal assessment records, NEC mapping and site inspections from car and kayak and on foot. Results show that development within the plan area in the Municipality of Northern Bruce Peninsula is a fraction of that outside the plan area.

Development pressures along Georgian Bay and Lake Huron – for cottages, permanent homes and commerce – have remained heavy and constant in the intervening 30 years, yet the Niagara Escarpment Plan has prevailed for lands under its protection.

In recent years, there has been a tremendous increase in public awareness of the importance and ecological significance of undeveloped Great Lakes shorelines and related special habitats such as alvars and fens. Unfortunately, undeveloped shorelines along the lower Great Lakes have become increasingly rare over the same period of time.

### Reflections...

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the fact that many were supported by the local municipalities. Protests were made by landowners who felt they were being discriminated against because they were located within the plan area. Severances were much easier to obtain outside the plan area. Shortly thereafter, the grape-growing industry had established itself on those same lands, thereby maintaining the open landscape while supporting an important element of Ontario's economy.

I sat on a peer review committee during the development of the NEF studies. What struck me was the great care taken in the formulation of the studies and in coming to terms with and responding to any parameters that could cast doubt on the findings. More significantly, I believe Ernest's work to be very important because 30 years since the passage of the *Niagara Escarpment Planning and Development Act (NEPDA)*, we are now beginning to see the results of the NEPDA – an inspired piece of legislation. It takes Mother Nature – and the economy – a while to respond.

The province is now reviewing its land use planning directions, including the approval in February 2005 of the Greenbelt.. I hope that Ernest's work will help us trust our intuition once more.

## A Former Niagara Escarpment Commissioner Reflects

by Robert Boraks

My first appointment to the Niagara Escarpment Commission (NEC) occurred in 1993, during the Bob Rae government.

Those were considered halcyon days for the many that supported the radical concept of an environmentally-based land use plan, the Niagara Escarpment Plan (NEP). For many others, however, the commission was seen to be the preserve of a special interest group – environmentalists – who were prepared to remove the economic rights of those who lived within the plan area. The repeated mantra of “expropriation without compensation” from those who were not permitted to pursue individual aspirations was almost enough to make one levitate. It is somewhat ironic, therefore, that with the electorate’s acceptance of a “common sense revolution” in the 1995 election, the face of the NEC was radically changed by the appointment of commissioners who actually did have a special understanding of economic “special interests.”

Having taken a rather “Jesuitical” interpretation of the NEP during my first term, it came as a surprise to many, including me, that I was reappointed to Premier Harris’s commission for two more terms. They were difficult terms, at least at first. Many well-worn clichés were trotted out to justify the marginalization of the plan. More than once, I left commission meetings with resolutions of not returning. But my concerns were not warranted. The commission did not disappear and the escarpment was not paved over. I’m not sure if it was the tenacity of the NEC staff, the diligence of numerous non-governmental organizations, or the sagacity (for the most part) of Cabinet, but in spite of some very questionable decisions by the NEC, the system worked.

In spite of or because of the trial by fire, one can perceive that the simplicity and logic of the plan have been reaffirmed by both public and political will. Nowhere was that reaffirmation more evident than at the commission itself. With the introduction of “common sense” dialogue, ideological truisms were hoisted high by both environmental and economic-determinist commissioners in their desire to sway the vote on development applications. However, the harshness of that initial dialogue was tempered with time. I believe that the tempering process from all sides was due to the acceptance by most, if not all, that the plan really does work. It was both amusing and gratifying to see that by the end of the Harris-appointed commission, both sides of the ideological schism were very often voting the same way on applications, having found that the plan can support economic improvement within an environmental paradigm. There was acceptance that this plan is different. An esteemed past staff director of the commission, Frank Shaw, constantly reminded us that the majority of land use plans attempted to put a bit of green into their development; the NEP attempts to put a bit of development into the green. He was, and is, correct.

The intuitive acceptance by commissioners that the plan works has been just that – intuitive. It has been very difficult to quantify the effectiveness of the plan over the years. Leading Edge papers and some of the government-sponsored monitoring programs have been enlightening with respect to

indicator elements, but until recently, there have been few comprehensive studies that have been able to justify that intuitive acceptance. The Niagara Escarpment Foundation (NEF), a group that undertakes research and educational programs, recently published four studies that explored the effectiveness of the plan. The author of the studies, Alan Ernest, undertook comparative analyses of elements recognized in the plan – stopping urban sprawl, protecting forests and ecological corridors, and preserving natural shorelines. The studies are very effective. They are well-written and convincing. More importantly, Ernest’s research has given substance to awareness.

The work on shorelines and forests draws heavily on comparative analyses of the plan’s effectiveness within discrete comparable locations. Nowhere is this more striking than the plan’s effect on shoreline development in Northern Bruce Peninsula. Inside the plan area, 3.3 percent of the shoreline has been developed since 1974, whereas 24.6 percent of the shoreline has been developed outside the plan area – very convincing. An interesting follow-up to this study would be to confirm the effect of the plan on property values along the relative shorelines. A separate study conducted by Ernest for the NEF showed that Dufferin County properties within the plan area sold for prices between eight and 32 percent higher than similar lots outside the plan area.

Ernest reached similar conclusions when studying the effect of the plan on forests and ecological corridors in Mulmur Township, Dufferin County, where the escarpment is buried by glacial deposits and the terrain is similar both inside and outside the plan area. According to Ernest, there has been an increase in the amount of forest cover both inside and outside the plan area, although the rate of reforestation within the plan area is significantly higher. A recent paper presented at a Leading Edge conference reached a similar conclusion. However, the researcher discovered that while the total amount of tree cover had increased, the average mean size of contiguous forest had actually decreased.

NEF/CONE research on farmland, undertaken as a companion to Ernest’s work, shows that the plan’s ability to protect farmland appears to have been most effective. Between 1990 and 2000, of the 218 agricultural severances in the Town of Caledon, only 15 occurred within the plan area. Of the 173 agricultural severances in the Town of Lincoln (located in Niagara Region), none occurred within the plan area.

I found the Lincoln statistics to be especially important and indicative of the plan’s success. By the early 1990s, the effect of free trade was found to be especially devastating on the tender fruit growers of the Niagara Peninsula. Farmers were cutting down their trees and numerous applications were made to the NEC for lot severances. No severances were approved by the commission in spite of

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