

COALITION ON THE

P.O. Box 1006, Station F
50 Charles Street East
Toronto, Ontario
M4Y 2T7



NIAGARA ESCARPMENT

Phone: (416) 960-2008
Fax: (416) 960-9944
E-mail: cone@niagaraescarpment.org
Web: www.niagaraescarpment.org

CONE

October 31, 2002

**Mr. Gary Murphy
Niagara Escarpment Commission
232 Guelph Street
Georgetown, ON L7G 4B1**

**Re: Canterbury Hills Conference Centre
(Development Permit File Number W/R/01-02/301)**

Dear Mr. Murphy,

The Coalition on the Niagara Escarpment is pleased to provide these comments on the application by Canterbury Hills Conference Centre to expand their existing 805 m² (8,665 ft²) conference centre to 2,784 m² (29,967 ft²) with associated parking lot.

Our comments are based on our first-hand knowledge of the site and the surrounding area, discussions with neighbours and local conservation groups, meetings with the proponent and their planner and our review of the proponent's application including the Environmental Impact Statement prepared by Natural Resource Solutions Inc.

These comments represent an update to our earlier comments submitted to the NEC on June 14, 2002. We have revised our comments somewhat based on new information we have gathered. However our final position remains unchanged.

SUMMARY OF CONE'S POSITION

CONE takes the position that the proposed conference centre is of a scale far exceeding that which can be dealt with through the development permit process and that an amendment to the Niagara Escarpment Plan (NEP) should be required. A plan amendment hearing will also allow for the full airing of some of the other issues which CONE will raise in this letter.

Therefore, our recommendation to the Commission is that the proponent's application for a Niagara Escarpment Plan development permit should be refused.

A NOTE ABOUT THE APPLICANT

Canterbury Hills has been a valued part of the Niagara Escarpment community for many years now. They have instituted programming which has raised public awareness about the Niagara

Escarpment and they have demonstrated a sensitivity to the Escarpment ecosystem in their activities.

However, despite CONE's support for the mandate of Canterbury Hills, we cannot support the application as presented. Our reasons are described in detail below.

We do, however, feel there is merit in improving the existing conference facility and we are prepared to work with Canterbury Hills through the Plan Amendment process to reach a solution which meets their business objectives, is sensitive to the environment, and meets the objectives of the Niagara Escarpment Plan.

COMPATIBILITY WITH THE NEP

It is CONE's position that the proposed conference centre is in violation of the permitted uses for the Escarpment Protection Area in Part 1.4 of the Niagara Escarpment Plan.

While the Escarpment Protection Area designation does permit small scale institutional uses, it is CONE's position that the proposed conference centre is neither "small scale" nor institutional.

Institutional Use

The NEP defines "institutional use" as "use of land, building or structure for some public or social purpose, but not for commercial purposes, and may include governmental, religious, educational, charitable, philanthropic, hospital or other similar or noncommercial use to serve the immediate community."

Admirably, Canterbury Hills has historically limited use of its facility to church groups or other not-for-profit organizations. They report that on average 5% of users are from the corporate, for-profit sector. In 2001, Canterbury Hills reports that they hosted five weddings on site, both at the camp and at Bagnall Lodge, with receptions in some cases being held off site.

While Canterbury Hills has stated that it is its intention to continue with this policy of servicing the church and not-for-profit sector, there are no guarantees that this will be the case.

Canterbury Hills informs us that they have not prepared a business plan for the expanded conference centre. It is CONE's position that the highly modernized facility will attract a more diverse clientele. And the financial investment and tremendously increased scale will likely require its use for commercial purposes in order to remain economically viable and provide an acceptable return on investment.

In summary, CONE is not convinced that this facility will continue to meet the requirements of an institutional use in the event that the expansion is permitted.

This issue is discussed in more detail under the "Existing" Uses heading below.

Small Scale

Not only is the proposed conference facility not an “institutional use” as defined in the NEP, it also fails to meet the guidelines for “small scale”.

The applicant is proposing to expand an existing conference facility from 805 square metres (8,665 square feet) to 2,784 square metres (29,967 square feet). This more than triples the size of the existing facility.

The Plan does not define “small scale.” However, a previous case put before the Joint Board in 1992, the case of the Serbian Orthodox Diocese in Milton (case 91-19), led to a Commission guideline stating that small scale institutional uses must be less than 5,000 square feet (465 square metres).

This guideline was reinforced in a recent decision by the Joint Board in the case of the Wat Lao Veluwanaram temple in Caledon (case 00-021). In that decision, the hearing officers upheld the NEC’s decision to grant a development permit for the temple because it fell within the “small scale” guideline of 5,000 square feet for an institutional use. The decision dedicated considerable discussion to both the need for the 5,000-square-foot guideline and its application, and the guideline was the determining factor in the Joint Board’s decision.

The Wat Lao decision states that the 5,000-square-foot guideline “has been the subject of careful NEC study and is a reasonable constraint that this Board considers precisely applicable in the present case.” It goes on to state that the Joint Board “agree with the view that the intent of the limit on scale is important; it is meant to place limits on the size, mass, bulk, appearance and impact of the building on the site, and so a careful accounting is necessary.”

If a religious temple is required to stay within the 5,000 square foot limit, CONE asks why the same standard should not apply to a commercial operation such as the proposed Canterbury Hills Conference Centre.

CONE also notes that it has been common practice for the NEC to “pool” the sizes of buildings on a single site in determining scale, regardless of whether those buildings serve a common purpose. Once again, the policy of pooling building sizes in arriving at a decision on scale has been upheld by a Niagara Escarpment Hearing Officer and the Minister of Natural Resources. In an August 3, 2000 decision in the case of *Coalition on the Niagara Escarpment v. Niagara Escarpment Commission* (case 00-014), the hearing officer recommended that an NEC decision to permit a commercial development in Grey County be overturned in part because the 2,400-square-foot proposed building would bring the total building footprint on the property to more than 5,000 square feet. In that case, the total building footprint would have reached 7,400 square feet, far less than what is being contemplated in the Canterbury Hills case. As is the case with Canterbury Hills, the buildings in the Grey County case were unrelated in use (they included a house, communications tower, commercial space and the proposed addition was for a commercial storage operation). However the Hearing Officer still ruled that the building sizes must be pooled in determining fit with the 5,000 square foot limit.

The lot on which the proposed Canterbury Hills Conference Centre is located also contains numerous other buildings. These include one staff residence, three meeting halls and one dining

room (with seating capacity for up to 120 people), three outbuildings and ten log cabins. The combined square footage of the *floor area* (the applicant did not provide us with the entire building sizes) of these buildings is 1,738 square metres (18,707 square feet). The combined total if the conference centre expansion is permitted would be 4,253 square metres (45,779 square feet)!

It is CONE's position that Canterbury Hills is already in excess of the limit for a "small scale institutional use" and therefore any further expansion, especially one of over 20,000 square feet, must be subject to a Plan Amendment.

The proponent has suggested that the expansion does not represent a significant intensification in land use, because overnight capacity is only being increased by 11%. CONE responds to this in two ways.

First, the physical scale of the building would have tremendous impacts regardless of the use. These include noise and lighting impacts, visual impacts, and impacts on habitat by eliminating the buffer between the current structure and the surrounding forests. CONE is particularly concerned that the removal of most of the lawn area will mean that there is not sufficient outdoor space to accommodate guests. As a result many more guests will be gathering on the trails and in the forests, creating a serious intensification of use in the most sensitive ecological areas.

CONE's second response to the issue of intensification in land use is that, while the maximum daily capacity of the facility is being increased by only 11%, the clear intent of the proponent appears to be to increase business at the facility by reaching capacity more days each year. The rustic nature of the current facility and its use of shared bathrooms limits its use, thereby minimizing its impact. Converting the facility to a fully modernized conference centre with *en suite* bathrooms and other amenities would significantly increase the number of users on an annual basis such that the actual intensification of use taken on annual basis will be far greater than 11%. Canterbury Hills has informed us that in 2001 only 49 groups used the facility either residentially (32 groups / 1,417 people) or on a day basis (17 groups / 592 people). This clearly leaves significant room to expand the usage of the site over the course of a year.

Existing Uses

CONE has also considered whether the proposed conference centre would qualify under the existing uses provision of the Plan. Part 1.4.2 of the NEP permits "existing uses" in the Escarpment Protection Area which are defined in the Plan as "any land, building or structure legally existing on the day of approval of the Niagara Escarpment Plan." Part 2.3.1 of the NEP states that "an existing use, building or structure may expand or change in use, or be replaced when it can be sufficiently demonstrated that the objectives of the applicable designation of the Niagara Escarpment Plan are met." This is qualified by Part 2.3.4 which states that "an expansion or enlargement shall be minor in proportion to the size and scale of the building or use at the date of approval (June 12, 1985) of the original Niagara Escarpment Plan and shall not result in an intensification of the use."

It is CONE's opinion that this application fails to satisfy the existing uses provision of the NEP in two ways: (i) It does not meet the objectives for the Escarpment Protection Area; and (ii) The expansion is not minor in proportion to the size of the current building.

The conference centre does not meet three of the four objectives of the Escarpment Protection Area. The conference centre would decrease the open landscape character of the Escarpment (objective #1) and would also decrease the buffer around the rare Carolinian forests of the Dundas Valley found on this property (objective #2). While the proponent has made much of the fact that most of the expansion would take place on already cleared land, the impact on the surrounding forests of moving the building envelope to within a few metres of the forest edge would be significant. The conference centre would effectively eliminate the entire buffer zone between the current structure and the forest. It would also eliminate most of the outdoor area for guests, forcing them to gather on the trails and in the forest. As such, the proposal would negatively affect an important part of the Dundas Valley, a provincially significant Area of Natural and Scientific Interest, and therefore is incompatible with objective #3 of the Escarpment Protection Area designation.

In addition, the proposed expansion is clearly not minor in proportion to the size of the current building, as required by Part 2.3.4 of the Plan. Although “minor” is not defined in the Plan, common sense must set the bar far below the tripling in size proposed for the Canterbury Hills Conference Centre. Historically, the NEC has deemed expansions in the order of magnitude of 25 to 40% as reasonable expansions within the meaning of Part 2.3.4. Canterbury Hills’ proposal goes far far beyond that.

Canterbury Hills has tried to argue that the expansion is actually only 67%. This figure is arrived at by comparing the additional *floor area* (it is not clear here whether the proponent is using only floor area or the full building size) with the current cumulative square footage of all of the other buildings on the property. This is not an appropriate way to determine the increase to an existing use. Only those structures which are part of that existing use can be factored in to the equation. Canterbury Hills has informed us that “each area of the Canterbury Hills conferencing facility operates independently”. There are only minor and infrequent cross overs in use between the camp facility on the one side of the property and the conference facility on the other. It is CONE’s position that the use in question is the conference centre and only the conference centre, and the expansion to that use is more than three times the current size.

In conclusion, the Canterbury Hills Conference Centre fails to meet the objectives of the Escarpment Protection Area and it is not minor in proportion to the size of the current building. Therefore it does not qualify for a development permit under the existing uses policies of Part 1.4.2 of the Plan.

ENVIRONMENTAL IMPACTS

The Environmental Impact Statement (EIS) prepared by Natural Resource Solutions Inc. for the proponent is wholly inadequate for the purpose of arriving at any informed decision as to the environmental impacts of the proposed development.

Again, CONE is of the strong view that a public hearing associated with a Plan Amendment application is required in order to have a full and open discussion of the development and its merits and impacts.

Below, we have listed numerous shortcomings of the proponent's EIS that support CONE's position that this application requires further scrutiny through a public hearing as part of the Plan Amendment process.

Impacts on Wildlife

CONE is particularly concerned about the impact of the development on the movement of wildlife. Natural Resource Solutions Inc. states in their report that "the proposed development will not impact the potential linkages through wooded areas" (page 9). This statement is made without reference to any evidence. In fact, that sentence comprises the consultants *entire* discussion of the impact of the development on wildlife corridors. The consultant seems to be implying that as long as the development does increase the *physical dimensions* of the current gap in the forest, there will be no impact on wildlife corridors. This is not true. The *type of land use* that exists in forest gaps is also important. Filling the current mowed lawn gap in the forest with a three-storey conference centre is very likely to have ecological impacts. The proposed building envelope, and the fire route that surrounds it, would abut the edge of the forest and would entirely eliminate the buffer between the current building and the forest. But the consultant does not address this issue at all.

The EIS also reports no occurrence of any species of significance that would be negatively affected by the development. This assertion is based on field surveys conducted in May, June and July 2001, and covers the area from the building envelope to the field to the east, to the Canterbury Hills camp to the west, to the road to the south and 300 metres into the forest to the north. CONE is of the view that this study area is completely inadequate for evaluating the impacts on wildlife in the area. CONE is particularly concerned that the EIS does not reference any of the wealth of studies done over the years in Dundas Valley. For example, CONE's cursory review of some of these studies noted Louisiana waterthrush, hooded warbler, and Acadian flycatcher at the nearby site of the former Merrick Field Centre and Cerulean warbler at the adjacent Maplewood property (formerly Resource Management Centre). All of these species are nationally vulnerable or threatened. So although the consultants did not identify these species on the Canterbury property itself on the days of their surveys, there is abundant evidence of the presence of these species on neighbouring properties. Yet no mention has been made of this fact in the proponent's EIS and there is no discussion on how the proposed conference centre expansion might impact them.

Cumulative Impacts

The issue of cumulative impacts is a particular concern with this application given the tremendous ecological significance of the Dundas Valley.

The EIS states that "in order to evaluate the potential for cumulative impacts resulting from this development, it is necessary to look beyond the boundaries of the site to the lands that currently drain to the site as well as lands that are downstream" (page 10). The study then goes on to provide a definition of the types of cumulative impacts that one might encounter in a project of this nature. However, after dedicating three quarters of a page to an academic definition of what a cumulative impact is, the report states "based on the proposed development, there do not appear to be potential sources of cumulative impacts to the natural features" (page 11). This

statement is made without any rationale, evidence or justification. The report merely defines what 'cumulative impact' means and then states that there will be none! One can easily be left with the impression that the proposed conference centre must therefore be the only development of any significance in the general vicinity. This is simply not true.

Immediately to the east of the proposed conference centre is the controversial Maplewood (formerly Resource Management Centre). Maplewood is owned by the Hamilton and Region Conservation Authority and has been the subject of numerous development permit applications to the NEC. Most recently, these include a 1998 application for a Discovery Centre which included a new 8,000-square-foot building with provision for overnight accommodation (NEC file number W/L/97-98/318) and a 2000 application for the Tapley Binet private school for up to 140 students. Neither of these applications was allowed to proceed for many of the same reasons cited in this letter for refusing the Canterbury Hills Conference Centre, but these may not be the last applications that we will see for Maplewood. Absolutely no attempt has been made by the Canterbury Hills' consultant to consider the cumulative impacts on the Dundas Valley from both an expanded Canterbury Hills Conference Centre and an expanded use for Maplewood.

The EIS does not even provide a discussion of other developments on the same property as the conference facility. As previously mentioned, these include one staff residence, three meeting halls and one dining room (with seating capacity for up to 120 people), three outbuildings and ten log cabins. The proponent does not mention how many people make use of this site every year or whether there are any plans for expansions of any of these facilities.

These are not the only two nearby developments whose cumulative impacts on the Dundas Valley must be considered before making a decision on the future of the Canterbury Hills Conference Centre.

The 1991 E.S.A. Development Sensitivity Study by Geomatics International found that "of all eight ESAs examined, the Dundas Valley ESA has undergone the greatest number of developments, including several large subdivision developments. A total of 34 rezoning/development applications have been made for this ESA" (page 36). These include 15 applications for single family or rural estate residences; five applications for subdivisions; two applications for townhomes or apartment buildings; and three applications for stream alterations. CONE does not have any information on development proposals which have been proposed and/or approved in the 11 years since that 1991 study.

The Geomatics report later notes that most of the developments taken individually are not of great concern, but "the cumulative effects of each individual impact is of most concern" and they identify five of the nine criteria establishing the ESA as having been affected. These are hydrologic flow, high quality communities, diversity of biological communities, large and undisturbed natural areas, and aesthetic value from combination of landforms and habitats. It also notes identified impacts as including "habitat loss, erosion and siltation, tree damage (cutting, delimiting), visual impact (from adjacent road), slope impact (with regard to setback requirements), dumping and landform impact (removal). In addition, rural estate dwellings located in natural areas and without adjacent residential developments are identified as precedent-setting."

Natural Resource Solutions Inc. does not mention any of these factors in its one-page discussion of cumulative impacts. Given the tremendous significance of the Dundas Valley as a provincially-significant ESA and ANSI and as an Escarpment Nodal Park, cumulative impacts must

be fully explored before any decision is made on the future of the Canterbury Hills Conference Centre.

Noise, Traffic and Light Impacts

The proponent has provided no information on the expected impacts of increased traffic as well as noise and light pollution on both the abundant wildlife in the area and on neighbours.

CONE contends that the conference centre, with accommodation for up to 100 day guests and 60 overnight guests, will result in significant increases in traffic. This contention would appear to be supported by the fact that the applicant plans a 20% increase in the number of parking spaces (from 45 to 54). Associated with this increase in traffic will be an increase in noise and dust from unpaved roads leading up to the site. The proponent has suggested that the improved overnight accommodations will mean fewer day guests will be forced to drive to downtown hotels or return to their homes, thereby minimizing traffic impacts. Unfortunately, no traffic impact study was provided to support this claim. And CONE is of the view that the increase in the number of annual visitors to the facility will more than offset any reductions in traffic associated with more guests staying overnight instead of moving off-site for accommodation.

Traffic impacts are an important concern with this application. The roads in this area are winding with many blind corners. And since the opening of the Lincoln Alexander Parkway, neighbours report that traffic on local roads in this area, most notably on Old Dundas Road, has risen dramatically. Traffic concerns were one of the key reasons why the former Town of Ancaster refused the Tapley Binet private school development at the adjacent Maplewood property. The proponent has not provided enough information to arrive at an informed conclusion on this issue. Once again, this is an issue which requires the careful examination of a Plan Amendment hearing.

The City of Hamilton would seem to concur that the proponent has provided insufficient information upon which to make a decision. In his May 30, 2002 letter to the Commission, planner Raymond Lee writes "as the proposal entails a significant increase in the size of the existing building, and therefore an increase in the associated features such as parking spaces, driving aisles, and grading and drainage concerns, it is difficult to gain an appreciation of the full impact of the proposal at this time." While Mr. Lee contends that these issues can be addressed by City staff at the site plan approval stage, it is CONE's position that these important issues must be aired in a public forum, such as a Plan Amendment hearing, *before* a permit is issued by the NEC.

Light impacts must also be considered. The proponent has not indicated if the application will create the need for street lighting, parking lot lighting, or security lighting around the building. Excessive lighting, especially that which is not shielded, can negatively affect wildlife.

Visual Impacts

The proponent has not provided any assessment of the visual impacts of the proposed conference centre. At three storeys, the conference centre would be one of the tallest buildings in the area. There may be several views that would be affected by such a development, but no evi-

dence has been provided in this regard.

PRECEDENT

CONE is concerned about the precedent that approving this application would set.

If approved under the existing uses provisions of the Plan, this application would beg the question of what expansion of an existing use, if any, would be incompatible with those provisions. There is considerable case history in this matter. Historically, the NEC has deemed expansions in the magnitude of 25 to 40% to be permissible through the Development Permit process. The proposed expansion is much higher than that and would set a dangerous new “upper bar” below which just about every other future expansion imaginable could pass.

If approved as a new use, it would set a dangerous precedent for other development permit applications in the Escarpment Protection Area. How could the NEC refuse other new commercial developments in the Escarpment Protection Area if it approves a 30,000 square foot conference centre in this case?

RECOMMENDATIONS

CONE takes the position that the proposed conference centre is of a scale that far exceeds that which can be dealt with through the development permit process and that an amendment to the Niagara Escarpment Plan should be required. A Plan Amendment hearing would also allow for the full airing of some of the other issues which CONE has raised in this letter.

Therefore, the proponent’s application for a Niagara Escarpment Plan development permit should be refused.

Thank you for the opportunity to comment on this application. If you have questions please do not hesitate to contact us.

Sincerely,

Jason Thorne, Executive Director