

TECHtalk

Providing a Voice for Planning Technicians Across Canada

Summer 2011

Legal Non-Conforming Uses in Ontario Page 1

2011 Professional Development Conference Page 7

2011 CACPT Council - Danielle Stevens Page 8

BC News - Professional Development Day Page 9

Albert News - Olds College Page 10

“Deep Collection” Waste Management System Page 13

Retirement of Laverne Kirkness Page 16

CACPT Awards Page 17 - 19

Merit Award Nominations Page 20

New Associate / Full Members Page 21



Legal Non-Conforming Uses in Ontario

by John Mascarin

Introduction

Land use and planning statutes in all jurisdictions in Canada have traditionally limited the scope and applicability of zoning by-laws by including provisions which exempt existing uses from newly created land use restrictions. A non-conforming use is a use which is not permitted under the applicable zoning by-law currently in force. A legal or lawful non-conforming use is a statutorily permitted use that allows a building, structure or land to continue notwithstanding the passage of a zoning by-law or amendment which no longer allows that use.

The basis for the legislative protection of existing contravening uses is to preserve property rights in fairness to the landowner given the landowner's general reluctance to forfeit such rights without compensation.

As noted in *382671 Ontario Ltd. v. London (City) Chief Building Official*:

...the legal non-conforming use principle was given statutory form in Ontario and elsewhere to provide a limited form of protection to vested property rights in the teeth of the necessary zoning powers of local governments to control the orderly development of municipal lands in light of ongoing and constantly changing circumstances.

Without this protective principle, the local landowner would be at the mercy of the passing whims and fancies, as well as the reasoned planning and zoning judgments, of local officials and could face indirect expropriation or forfeiture without compensation. Thus, the non-

...Legal Non-Conforming Uses in Ontario

by John Mascarin

conforming use principle has been statutorily embedded in the zoning process to prevent retroactive injustice from being wrecked upon the landowner.¹

The general intention of planning legislation is to eventually eliminate non-conforming uses and replace them with permitted uses.

Statutory Protection for Legal Non-Conforming Uses

In Ontario, s. 34 of the *Planning Act* grants municipalities the power to “prohibit the use of land, for or except for such purposes as may be set out in the [zoning] by-law.”²

Properties which have been continuously and lawfully used for a purpose subsequently prohibited by a newly enacted zoning by-law are given limited protective status in the *Planning Act* as legal (or lawful) non-conforming uses. This protection is found under s. 34(9)(a) of the *Planning Act*:³

34(9) No by-law passed under this section applies,

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.

Establishing entitlement to the legal non-conforming use protection afforded under s. 34(9)(a) of the *Planning Act* is a tricky proposition. This article will focus on clarifying the key requirements and considerations in the establishment of a legal non-conforming use under s. 34(9)(a).

Establishing Legal Non-Conforming Uses

There are three principle matters that must be satisfied in order to establish entitlement to the legal non-conforming use exemption under s. 34(9)(a).

a. Use

Clause 34(9)(a) begins with the statement that no zoning by-law applies “to prevent the use of any land, building or structure for any purpose prohibited by the by-law” subject to two conditions. The term “use” may be defined as “holding or occupying property or the employment of property for enjoyment, revenue or profit without in any way diminishing or impairing the property itself.”⁴

¹ (1996), 32 M.P.L.R. (2d) 1, 28 O.R. (3d) 718 (Ont. Gen. Div.).

² R.S.O. 1990, c. P.13. The non-conforming use protection has had a very long history in Ontario having been included in the original authority relating to restricted area by-laws first enacted in s. 541a of *The Consolidated Municipal Act, 1903*, by virtue of the amendment promulgated by s. 19 of *The Municipal Amendment Act, 1904*, S.O. 1904, c. 22.

³ Clause 34(9)(b) of the *Planning Act* preserves the rights of those persons who have obtained a building permit for the erection of a building or structure prior to the passage of a zoning by-law or by-law amendment.

⁴ I.M. Rogers and Alison Scott Butler in *Canadian Law of Planning and Zoning*, 2nd ed., looseleaf (Toronto: Carswell, 2009) at 6.2.1.

...Legal Non-Conforming Uses in Ontario

by John Mascarin

It is important to note that the nature of a non-conforming use is not classified by reference to the definitions in a zoning by-law.⁵ Rather, the issue is whether a real, *bona fide* use is being made of the land by the owner or occupier seeking the non-conforming use exemption. The use must be evident both at the outset when the use is established as well as in situations where the use is interrupted.

The mere intention of a landowner to use his or her land, building or structure for a certain use or purpose is not sufficient to confer a legal non-conforming status under s. 34(9)(a).⁶ However, where an owner has purchased certain lands, buildings or structures and has made a commitment or a dedication to a use, there is some persuasive caselaw which states that this commitment or dedication may be equivalent to actual use in order to establish immunity as a legal non-conforming use. Under these circumstances, the intention of the owner, as well as evidence of commitment or dedication to continue such use, has been considered equivalent to actual use in the establishment of a legal non-conforming use.⁷

It is generally accepted by the courts and the Ontario Municipal Board that the term “use” is not restricted to the identical use as it existed on the date of passing of the zoning by-law. Some years ago the Ontario High Court determined in *Toronto (City) v. San Joaquin Investments Ltd.*⁸ that the onus is on the defendant or respondent to demonstrate both the use and continued use of the land to establish protection by legal non-conforming use. However, a number of subsequent decisions and commentators have indicated that the onus shifts to the municipality to demonstrate a discontinuance of a lawful non-conforming use.

There is no specific rule respecting the type of evidence required of the party seeking to establish non-conforming use. However, a landowner contending an entitlement to the statutory legal non-conforming use protection should always seek to provide, at a minimum, independent cogent evidence of the existence of the non-conforming use. If there is any remaining doubt as to the establishment of prior use, the matter “should be resolved in favour of the owner”.⁹

b. Lawful Use

The second element in establishing a “valid” non-conformity for purposes of the statutory exemption requires evidence that the “land, building or structure was *lawfully used* for such [prohibited] purpose on the day of the passing of the by-law.” In other words, the non-conforming use of the land, building or structure, at the time the non-conforming use was originally established, complied with all of the zoning by-law provisions in effect on that date. Typically, evidence of the issuance of a building permit will generally satisfy this requirement.¹⁰ Once a non-conforming use is established by the landowner, the onus shifts to the municipality to prove the non-conforming use was not lawful.

⁵ *Glenelg (Township) v. Davis* (1992), 10 M.P.L.R. (2d) 260 (Ont. C.A.).

⁶ *Toronto (City) v. Toronto Roman Catholic Separate School Trustees*, [1926] A.C. 81, [1925] 3 D.L.R. 880 (P.C.) and *Imrie v. Toronto (City) Committee of Adjustment* (1990), 25 O.M.B.R. 435 (O.M.B.).

⁷ *Cowichan Valley (Regional District) v. Yole* (1988), 41 M.P.L.R. 78 (B.C. S.C.).

⁸ *Toronto (City) v. San Joaquin Investments Ltd* (1978), 5 M.P.L.R. 113, 18 O.R. (2d) 750, 83 D.L.R. (3d) 584 (H.C.J.).

⁹ *Richmond Hill (Town) v. Miller Paving Ltd.* (1978), O.R. (2d) 779, 94 D.L.R. (3d) 145.

¹⁰ In Ontario a building permit cannot be issued unless there is compliance with “other applicable law” s. 8(2) of the *Building Code Act, 1992*, S.O. 1992, c. 23. “Applicable law” is defined in clause 1.4.1.3(1)(e) of O. Reg. 350/06 to expressly include a zoning by-law enacted under s. 34 of the *Planning Act*.

...Legal Non-Conforming Uses in Ontario

by John Mascarin

The word “lawfully” refers to the use to which a building or structure or land is put and not the right to occupy the building, structure or land.¹¹ In Ontario, “lawfully used” in s. 34(9)(a) generally means compliance with the zoning by-law provisions then in effect but could extend beyond just zoning compliance (to include, for example, compliance with licensing requirements).

c. Continuous Use

The third requirement noted in s. 34(9)(a) is the establishment of the “continuous use” element. A non-conforming use will enjoy a legal status only for “so long as it *continues* to be used for that purpose”. If the lawful non-conforming use ceases, the provisions and restrictions of the new zoning by-law become effective and the non-conforming use protection is lost. In some jurisdictions, a specific time period for cessation is permitted, but there is no specific timeframe contained in s. 34(9)(a) of the *Planning Act*.

(i) Cessation

An early decision of the Ontario Court of Appeal, *Hartley v. Toronto (City)*,¹² held that there were two necessary elements to establish continuance: an intention to continue a use and the continuation of the actual use to the extent possible in the circumstances. Thus, in addition to the onus of establishing legal non-conforming use, the landowner must also establish at least a *prima facie* case of continuance. Upon satisfying this burden, the onus shifts to the municipality to prove that the use has been discontinued or has ceased.

The continuance aspect of the test is the most problematic to establish. What elements must be present to show that the use has never discontinued or did not cease?

There has been no clear definition of what constitutes a discontinuance. In general, the case law suggests that the courts will look at the *fides* of the situation and will seek to determine the issue more on an equitable basis than on purely technical or legislative grounds. The Ontario Court of Appeal recently noted in *Feather v. Bradford (Town)*¹³ that an intention to use must comprise an active component – the person alleging that a non-conforming use has continued through what appears to be an apparent cessation cannot rely on a passive intention to continue.

Changes in ownership or occupancy do not affect the legal non-conforming status provided the continuity of use can be shown. Evidence supporting this claim must include a demonstration of the intent of the past and new owners to continue the non-conforming use.

¹¹ The word “lawfully” was added to the non-conforming use section for the first time in the *Planning Act* by S.O. 1959, c. 71, s. 5 (primarily as a result of the judgment in *R. v. Neichenbauer*, [1956] O.W.N. 134).

¹² *Hartley v. Toronto (City)* (1925), 56 O.L.R. 433 (C.A.).

¹³ *Feather v. Bradford (Town)* (2010), 71 M.P.L.R. (4th) 1 (Ont. C.A.) at 9. See also *Haldimand-Norfolk (Regional Municipality) v. Fagundes* (2000), 11 M.P.L.R. (3d) 1 (Ont. C.A.).

...Legal Non-Conforming Uses in Ontario

by John Mascarin

(ii) Change in Use

The leading judgment on legal non-conforming use (i.e. “acquired rights” under the Quebec legislation) is the Supreme Court of Canada’s judgment in *Saint Romuald (City) v. Olivier*.¹⁴ In this case, the question concerned whether a legal non-conforming use had changed so that it no longer applied. The respondents were owners of a building located where country and western entertainment had been presented since 1990. In 1991, the city passed a new zoning by-law where uses including “restaurant or bar with entertainment” and “restaurant or bar with erotic entertainment or films” were no longer permitted. In 1994, the business was bought out and the respondent began operating a bar which presented entertainment involving nude dancers. Had the use changed?

The Supreme Court of Canada determined that questions respecting the intensification or change of use were to be approached by a consideration of the following seven factors:

1. The purpose of the pre-existing use should be characterized.
2. The degree of intensification of the use must be discerned and whether it constitutes, in terms of community impact, a difference in kind, in which case the protection may be lost.
3. A consideration of how remote the expansion is from the earlier activities.
4. To the extent activities are added, altered or modified within the scope of the original purpose, there must be a balancing of the landowner’s interest against the community interest, taking into account the nature of the pre-existing use, the degree of remoteness and the new or aggravated neighbourhood effects. The greater the disruption, the more tightly drawn will be the definition of the pre-existing use or acquired right.
5. Neighbourhood effects, unless obvious, should be established by evidence to be relied upon.
6. A consideration of the proper balance in the characterization of the acquired right or legal non-conforming use (not too general as to liberate the owner from the constraints of what he actually did, and not be so as to rob him of some flexibility in the reasonable evolution of prior activities).
7. The definition of the acquired right or legal non-conforming use will always have an element of subjective judgement but it must be grounded on objective facts.

The Supreme Court of Canada concluded that “the change in entertainment offered by the respondents did not constitute the illegal replacement of the original non-conforming use with a different and therefore unprotected non-conforming use.”

¹⁴ *Saint-Romuald (City) v. Olivier* (2001), 22 M.P.L.R. (3d) 1 (S.C.C.).

...Legal Non-Conforming Uses in Ontario

by John Mascarin

Conclusion

In summary, the planning statutes of all jurisdictions recognize a limited form of protection for acquired rights respecting the use of land, buildings or structures. It would be a significant hardship to any person if they had obtained all necessary approvals to carry on a legal use of their property and then had actually carried on such use for a period of time only to find that a new zoning by-law rendered it illegal and that the use was required to cease. The concept of legal non-conforming use protects against such an inequitable outcome.

However, the legal non-conforming use protection remains an exemption to the application of the law and must be established by the party asserting it. The following key requirements must be satisfied in order for a person to establish a legal non-conforming use under s. 34(9)(a) of the *Planning Act*:

1. A real, *bona fide* use or a dedication or commitment to use. This is generally proven by cogent, discernible evidence of the existence of the non-conforming use having been established, prior to the zoning prohibition having come into force. The use is not restricted to identical use as it existed on the date of the zoning by-law.
2. A lawful use, that is, a use that complied with not only all of the zoning or land use restrictions in effect when established but also any other legal requirements for permitting that use.
3. A continuance of the lawful non-conforming use. If the lawful non-conforming use has ceased, the provisions and restrictions of the new zoning by-law become effective and the non-conforming use protection is lost. Questions respecting intensification and change of use are to be determined in accordance with the seven steps process articulated by the Supreme Court of Canada in *Saint-Romuald (City) v. Olivier*.

John Mascarin is a partner with Aird & Berlis LLP in Toronto and a Certified Specialist in Municipal Law: Local Government & Land Use Planning and Development. John teaches Land Use Planning Law at both Osgoode Hall Law School and the Faculty of Environmental Studies at York University. John would like to thank Aisha Ramakrishnan, summer student at Aird & Berlis LLP, for her assistance in the preparation of this article.

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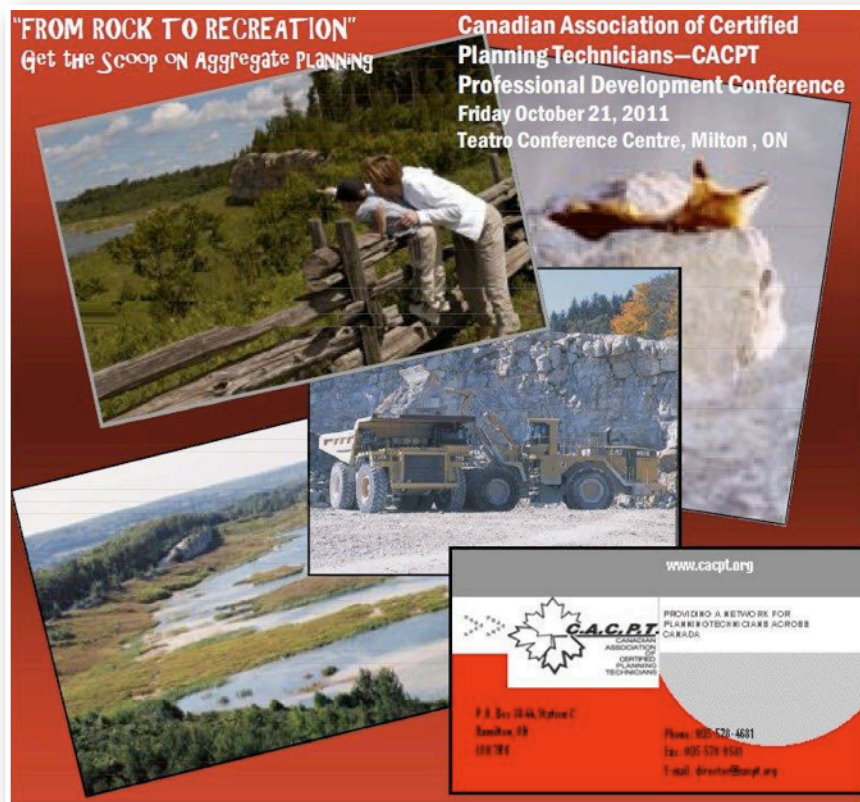
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2011 CACPT Professional Development Conference

MARK YOUR CALENDARS FOR THE
2011 CACPT PROFESSIONAL DEVELOPMENT CONFERENCE

OCTOBER 21, 2011
Teatro Conference Centre, Milton, Ontario



The theme this year is....

“From Rock to Recreation – Get the Scoop on Aggregate Planning”

The conference planning committee lead by our President Danielle Stevens has an impressive line up of speakers, workshops and tours. The day involves: a panel discussion that will include reviewing the subject from all perspectives, tours of an active quarry and a rehabilitated recreation area, technical workshops including a look at Sketchup, and an outstanding workshop on rehabilitation and after use.

One low price will include refreshments, lunch, gifts and door prizes. There is a special for out of province members.

Watch for the registration forms in late summer!

2011 CACPT Council

The Canadian Association of Certified Planning Technicians is governed by a Council, consisting of the Executive Committee and additional Council members (including student members), who meet periodically throughout the year to tend to the business of the association.



Danielle Stevens

is a Planning Technician at the City of Hamilton. Danielle graduated from Mohawk College (Fennell Campus) in 2007, where she obtained her diploma as an Urban and Regional Planning GIS Technician. Prior to

Mohawk College, Danielle attended Brock University for one year, majoring in social geography.

Post graduation, Danielle was employed with Metropolitan Consulting as a Planning Technician assisting in subdivision designs, site plan designs, zoning by-law amendment applications and engineering AutoCad drawings.

Currently Danielle is employed at the City of Hamilton and has held three positions within the municipality. Her career with the city began as a Planning Technician II in the Community Planning and Design section, where she assisted in the development of neighbourhood and secondary plans as well as aiding in the review of development applications. A year later, Danielle was the successful applicant for the position of Planning Technician I, with the Development Planning section, facilitating development applications such as site plans, zoning by-law amendments, holding removals, and provided comments for variance and consent applications at the Committee of Adjustment. Two years ago, Danielle returned to Community Planning and Design, working on

Downtown Hamilton Built Heritage Inventory, aiding with the development of secondary plans and providing comments on Committee of Adjustment applications.

Danielle became a student member of CACPT while attending Mohawk College. After graduating she continued her affiliation with CACPT by becoming an Associate Member. In 2009, Danielle became a full member of CACPT and volunteered to sit on Council. During her time on Council Danielle has held the positions of Acting Treasurer, Vice President, Co-Chair of the Professional Development Conference, and currently she is the President and Chairperson for the 2011 Professional Development Conference, which will be held in October. The theme of the conference is "From Rock to Recreation: Get the Scoop on Aggregate Planning". Danielle believes the CACPT has aided in her development as a Planning Technician and encourages anyone to get involved in the organization.

Danielle is not only involved in volunteering for the CACPT, but also teaches martial arts, as well as fundraising and volunteering for a not for profit organization called Camp Oochigeas, a camp for children with cancer. Danielle is involved in multiple sports and enjoys travelling and camping.

BC News



CACPT – BC Chapter Professional Development Day

On April 29, 2011 the CACPT BC Chapter hosted a Professional Development Day in beautiful Maple Ridge! The meeting took place at the Municipal Hall in Maple Ridge and carried on throughout the day with presentations, lunch and finished with a site tour in the afternoon.

The intent of the day was to provide an opportunity for CACPT members to network and have the opportunity to learn more about Community and Development Planning locally. Invitations were also extended to Planning students at Langara College and to planning staff at the Lower Mainland municipalities.

There were a variety of interesting speakers and their topics included: [Cycling Analysis](#) in the Lower Mainland presented by Sean Fadum (Urban Systems); an overview of the [Vancouver Area Cycling Coalition](#) presented by Erin O'Mellin (VACC); [Subdivision and the Municipal Approving Officer](#) presented by Chuck Goddard (Approving Officer for District of Maple Ridge), [Making the Grade, site grading from planning to the reality of construction](#), presented by Rachel Ollenberger (Site Grading Technologist for District of Maple Ridge); and [Silver Ridge, a planned community](#) presented by Ingrid Milne (Development Manager for Portrait Homes). The highlight of the day was a [Site Tour](#) of the Silver Ridge development by Portrait Homes, a planned community in the Silver Valley Area of Maple Ridge and hosted by Ingrid Milne.

Members who attended got the opportunity to network with fellow planners and planning technicians, as well as learn more about the CACPT and planning in our “backyard”.

We thank all the wonderful speakers, CACPT members, Langara planning students and non-members that attended! Also a special thanks to the District of Maple Ridge for hosting our development day. We greatly appreciate your support. The Professional Development Day evaluation forms for feedback will be sent out early July. We look forward to receiving your comments.

We are very excited about planning for next year. See you then!

Mercedes Braun & Ann Edwards

[Check out more photos of the conference on the CACPT Facebook page!](#)



Introduction and overview of the CACPT (Mercedes Braun)



Attendees networking and enjoying lunch



Site Tour – Portrait Homes (Ingrid Milne)



Planning overview of the Silver Ridge Community (Ann Edwards)

Alberta News



Olds College, Alberta

Accreditation of the Rural Land-Use Planning Program



The CACPT family is in the process of accrediting a new member: Olds College in Alberta. This article is to introduce the College and the program, and to welcome our newest affiliate.

In 2002, discussions took place between Olds College faculty and interested industry members regarding the need for land-use training in western Canada. Gregory MacKenzie, CACPT Alberta Councillor was involved in those discussions. In the spring of 2011, CACPT performed an Accreditation Review of the *Land and Water Resources Program – Rural Land-Use Planning Major (RLUP)* at Olds College.

The College and the Program:

Olds College is the premier comprehensive applied agricultural, horticultural, land and environmental management learning organization in Canada, and is the largest working college farm in Alberta at 2050 acres. Agriculture is Alberta's largest industry.

The College has become recognized for its commitment to education which supports rural development and stewardship. Although this focus and reputation was originally rooted in agriculture, the College's expertise and student interest has extended well beyond agriculture into numerous professions interacting with rural Alberta. Examples include graduates working in the fields of land reclamation, conservation initiatives, and rural land acquisition for oil and gas development. Their delivery of this new Rural Land-use Planning major is a natural extension of Olds College's commitment to sustainable rural development.

The program originated as two seven-week courses in 2009, expanding to a full 14-week course, and finally to a full two-year program with the first graduates in the spring of 2011. The first year of the program consists of general Land and Water Resource courses, with a second year devoted to Land-use Planning courses. Students do not have to decide on their major until entering the second year. This program is unique, flexible and provides the student with many career or study possibilities.

There is a demonstrated commitment by Olds College to provide the best educational opportunities that ensure acceptance of graduates by the industry, and a lifetime of unlimited learning and success for their students. The facilities of the agriculture and land-focused campus, as well as access to outside facilities and partners, offer the student every opportunity to enhance their learning experience to the fullest and to the best of their potential.

Graduates of the Rural Land-Use Planning Major within the Land and Water Resource Program benefit from obtaining a professional designation from the Alberta Institute of Agrologists (AIA), as a Registered Technologist in Agrology (RTAg). Along with the potential of a professional designation from the CACPT as a Certified Planning Technicians (CPT), the students will have the advantage of offering employers two professional designations.

The program has demonstrated its relevance to the industry it will serve. Graduates are finding employment in the profession and are being accepted into advanced degree programs, which attest to the validity of the program within the workplace.

As an accrediting body we recognize the unique role that the Rural Planning component plays in western Canada. This is the only Rural Planning Technician program in Canada and it will have the potential to be the framework for other Planning Technician courses to be offered at other Alberta institutions.

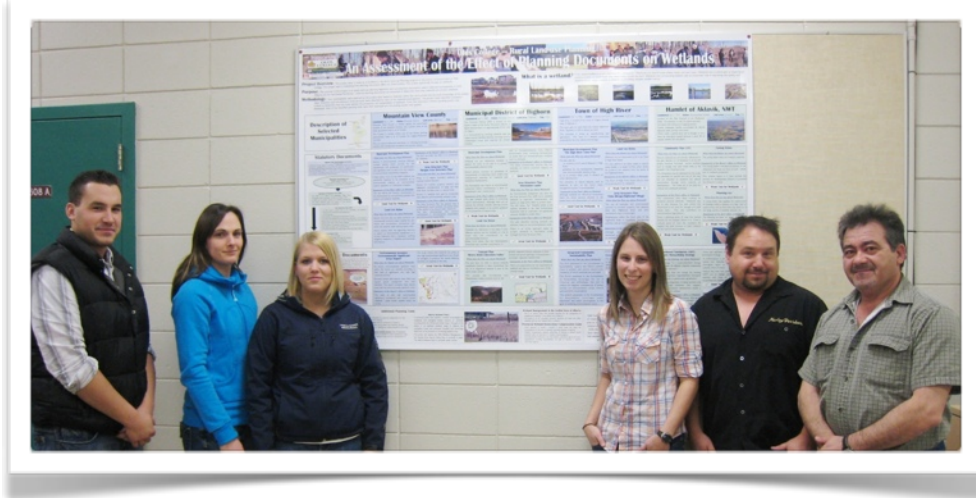
CACPT is encouraging the creation of more main-stream Planning Technician programs. There has and will always be a demonstrated need for graduates in the technical planning field in the western provinces. In discussions with CIP/APPI, there is an apparent and an immediate need for Planning Assistants, Planning Technologists, and Development Officers to support and produce mapping, design, conduct research and support all areas that are within the Planning Community.

The Accreditation Review - April 6 & 7, 2011:

The CACPT team consisted of Kitty Bavington and Nathalie Orsi, CACPT members from Ontario (former Vice-President and President respectively), and members of the 2004 Accreditation Team for Langara College in British Columbia), and Christine Mighton, Gail Gibeau and Dean McCartney, CACPT members from Alberta. Doug Peters and Murray McKnight of Olds College were key accreditation participants, along with Allison Williams, a member of the Olds Advisory Group.



The team toured the facilities, met with instructors, students, staff, and members of the advisory committee; we observed lectures and panel discussions, reviewed projects and course materials, received presentations and technological demonstrations, and participated in class discussions. It was emphasized that the College prepares students to contribute provincially, nationally and internationally in land-related careers.



We met with the graduating class to view a PowerPoint presentation on their various projects and work this year. A Land Use Planning Manual – learning and reference tool – is an ongoing project. The class presented a **very impressive** group poster project titled “An Assessment of the Effect of Planning Documents on Wetlands” sponsored by the Alberta Institute of Agriologists (AIA). The students attended the AIA conference in March.

The students enthusiastically discussed the planning industry and career options. They were all very knowledgeable and confident, and most had already secured employment in the industry or made plans to continue their education. They favoured the small classes and hands-on experience they had acquired and the team dynamics that were built in this program. The students felt that they had been provided tools rather than book learning, and they felt well-prepared to start careers or advanced education.

CACPT team members had an opportunity to make presentations to first and second year classes regarding the many options available and the benefits of a career in planning. The expanding career potential in Alberta was highlighted. It was also emphasized that belonging to a professional organization (such as the CACPT) is a valuable asset to a career, no matter which path their career may take.

The last event on the itinerary was a faculty reception with staff, program instructors, and CACPT members. It was a great opportunity to connect with each other and discuss the accreditation. Among the many benefits of the accreditation visit, a rapport was built to maintain contact with the educational institution, and to ensure that the graduates are appropriately trained and skilled.

Group dynamics play an important part of the learning experience at Olds College and can be seen to be carried through at every level from student to instructor to advisory committee meetings. The Olds’ team works creatively together and professionally complements each other to the benefit of the program. There is an obvious mutual respect between the students and instructors, and a demonstrated concern for the well-being of the students, by the college.

The accreditation report has been presented to Olds College for review and includes the findings and recommendations that CACPT Council, along with the Olds College faculty, can consider for future implementations.

The CACPT Accreditation team expresses appreciation to the Olds College staff and faculty for their hospitality and cooperation throughout this process and during our visit.



“Deep Collection” Waste Management System

Kitchener, ON

Garbage – it’s everywhere and everyone’s problem

Now there’s a solution - an alternative to the traditional stand alone dumpster, the unsightly wooden enclosure or the more recent fully enclosed and roofed structure. The “deep-collection” waste management system is a garbage containment revolution that has drastically improved the way garbage is dealt with.

No longer do you need to have large steel dumpsters hidden in the back corner of your property. You can prominently display these attractive and functional containers in common areas and easily incorporate them into your site design. They can be used for virtually any type of development from commercial to industrial, from institutional to residential and from parks to public spaces.



The concept of the deep-collection system is simple. It takes advantage of the laws of nature - temperature of the earth and gravity. With two thirds of the 8-foot container installed below grade, garbage is kept cool in the summer, virtually eliminating odour and the insulating effect of the ground prevents freezing in the winter months. The small surface area relative to the depth of the container and its cylindrical shape cause the

...“Deep Collection” Waste Management System



garbage to naturally compact by gravity, increasing the capacity by 1.5 to 2.5 times its actual volume.

Initial interest in deep-collection stemmed from the multi-residential sector in the City of Kitchener a number of years ago. Since then, the deep-collection system has gained popularity, and now over 80% of the site plan applications submitted to the City of Kitchener use the deep-collection system as their preferred choice for waste management. Kitchener planning staff was impressed with this unique solution to the ongoing problem of waste management in site design.

Placing a deep-collection unit on site is simple, as they can be located virtually anywhere, resulting in greater flexibility of site plan layout. The space savings from the deep-collection system versus traditional garbage enclosures can allow for more amenity space or landscaped areas on site. For smaller properties, they can make it much easier to meet regulatory requirements for setback and parking.

Traditional dumpsters are limited in their placement by the way they are emptied. Their design requires a straight on approach by a garbage truck, which typically results in additional paved surfaces to accommodate the required approach route. The deep-collection unit, on the other hand, uses a reusable lifting bag that is raised by a knuckle boom crane, which allows for the placement of these containers to be almost anywhere on a site. When emptying, the release mechanism on the bottom of the bag is opened allowing the garbage to fall neatly into the truck and the emptied bag is returned to the deep-collection unit. Emptying the units is quick, easy and clean.



The deep-collection system also offers environmental benefits. With the natural compaction from gravity, the units require less frequent pick-ups resulting in reduced vehicle emissions from garbage trucks. Also, the well is rotation-molded from a single piece of polyethylene plastic, making it entirely leak-proof and preventing environmental contamination of the soil and ground water.

The units are available in different sizes to serve all your waste management needs, including mixed waste, recyclables, cardboard and even organics and cooking oil. They also have a variety of above grade finishes available to suit any development.

The deep-collection system can reduce capital and operating costs for developers, who no longer need to consider constructing a fully enclosed waste containment structure. Zoning setbacks also have to be considered with waste enclosures, which can limit possible locations and potentially take up future expansion area on site. Additionally, the floor area of a fully enclosed garbage structure can result in additional parking requirements based on zoning regulations and may also increase property taxes.

With evolving municipal garbage and recycling separation requirements, the number of containers required on site has increased. Unfortunately, existing garbage enclosures typically cannot accommodate additional containers resulting in their being placed outside of the original enclosure. In some cases they are even located in required parking spaces or being placed in landscaped areas, creating unattractive and potentially

...“Deep Collection” Waste Management System

unsafe sites. Alternatively, additional deep-collection containers have a much smaller footprint and avoid the need for an enclosure, making source separation relatively easy.

From a Crime Prevention Through Environmental Design (CPTED) perspective, the deep-collection unit is an excellent alternative to traditional garbage enclosures. They can be prominently displayed on site serving as an activity generator, eliminating the risk of entrapment and naturally deterring graffiti, because of their shape and exterior finish. The units are virtually fire and blast proof, making them an effective tool in the war against terrorism.

As the units protrude only 3 feet (0.9m) above grade, they are user-friendly and easily accessible by persons with disabilities and children alike.

Each unit is designed with an opening for the type of waste it is intended to collect. Cardboard containers provide a slot ensuring boxes are broken down, while garbage units have an opening roughly the diameter of a standard household garbage bag. This design feature discourages dumping on site and eliminates the spillover that occurs with traditional open dumpsters.

From a site design perspective, the deep-collection waste management system is an ideal solution for most applications. It is an effective crime prevention tool, provides both environmental and economic benefits, can be easily installed on virtually any site and is aesthetically pleasing.

Brian Page and Lisa Thompson are both employees of the City of Kitchener. Brian is the Supervisor of Site Development and is a Certified Engineering Technologist as well as a Landscape Architect. Lisa is a Planning Technician and the CPTED Specialist with the City of Kitchener and is a Certified Planning Technician.

For more information on the deep collection waste management system please feel free to contact either Brian or Lisa.



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Retirement...

LAVERNE KIRKNESS RETIRES FROM FANSHAWE COLLEGE – CONGRATULATIONS AND A BIG THANK YOU FROM CACPT!!

Laverne has been a professor of “Urban and Regional Planning” for almost 30 years and over 20 years as Coordinator of the program at Fanshawe. I know from working with his students and graduates that he is highly respected and well liked. This esteem has been and continues to be held throughout the planning profession.

Laverne has been a strong supporter of CACPT through the years and a recipient of the CACPT Honourary Life Membership in 2009. Knowing the value of a professional organization, he encourages his students to attend our annual conference and meeting and for students to become members of Council. His actions have been forever valuable in the development of CACPT membership.

With his retirement from Fanshawe College, Laverne will have more time to dedicate to his consulting business, Kirkness Consulting, and to spend with his friends and family.

CACPT wishes Laverne well in all his endeavours!



Dr. Norman Pearson giving the award to Laverne

Ontario Municipal Affairs and Housing – Learning Centre Website

Ministry of Municipal Affairs and Housing – The Learning Centre website is your one stop access for learning resources available 24/7. Here you'll find interactive e-learning products, and quick and accessible information on such topics as community planning, local government, housing and building. It is the ministry's portal to education, training and presentation materials.

To help promote the MMAH Learning Centre please take some time to visit the website at Ontario.ca/MunicipalLearning

2011 CACPT Awards of Excellence

Congratulations to the 2011 award recipients!



Erin Covill

Nova Scotia Community
College, Centre of Geographic Sciences

Erin accepting award from Mark Hebert

Zachari Giacomazzo

Fanshawe College,
GIS & Urban Planning Program

Zack (right) accepting award from Russ Schnurr



Jessica Carson

Langara College, Applied Urban and
Rural Planning Program

Jessica Kitchen

Mohawk College, Urban & Regional
Planning Technician GIS Program

*Jessica Kitchen (left) accepting award from
Danielle Stevens*



Dr. Norman Pearson CACPT Bursary - Inaugural Award

*Congratulations to the winners of the Dr. Norman Pearson
CACPT Bursary - Inaugural Award!*

Congratulations to the winners of this award – the inaugural awards were based on academic achievement in the first year of each of our accredited programs. As the presentation of these awards were delayed, these awards were based on the 2009/2010 academic year.



Heather Archibald

Nova Scotia Community College,
Centre of Geographic Sciences

Heather receiving award from Mark Hebert

Katharina Lardner

Fanshawe College,
GIS & Urban Planning Program

Katharine receiving award from Russ Schnurr



Aja Philp

Langara College,
Applied Urban and Rural Planning Program

Aja in beautiful BC

Melissa Nottley

Mohawk College, Urban & Regional Planning

Madelin Blacha

Mohawk College, Technician GIS Program

Melissa (left) and Madelin



CACPT Student Council Members *Award Recipients*

Three of our student Council Members received awards this spring.

Melissa Nottley from Mohawk College was one of the award recipients of the CACPT Dr. Norman Pearson Bursary Award - *please see the Dr. Norman Bursary article.*



Sean left receiving award from Fred Eisenberger

ESRI GIS Canada Scholarship Award

Sean O'Raw, Mohawk College

This is the 2011 ESRI GIS Canada Scholarship Award:

- A one-time payment of \$500
- Complimentary, permanent license of ArcGIS software, including one-year complimentary maintenance:
 - ArcGIS ArcInfo
 - ArcGIS Desktop Extensions: ArcGIS Spatial Analyst, ArcGIS 3D Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst and ArcGIS Publisher
- One-year subscription to ESRI Developer Network (EDN), which includes ArcGIS Server Enterprise Advanced for development purposes
- A copy of “Web GIS: Principles and Applications”
- A copy of “GIS Tutorial 2: Spatial Analysis”
- A copy of “GIS Tutorial 3: Advanced Workbook”
- Access to ESRI’s Virtual Campus for one year for 20+ ESRI developed courses
- A complimentary registration for one of ESRI Canada’s User Conferences
- Two complimentary instructor-led training courses.

Trip to Dubai – Studying and Tour Jay Muncaster, Fanshawe College

This award included a planning tour and learning sessions in Dubai! Jay has prepared a presentation regarding this trip and we hope to have it at one of our conferences or seminars in the following year.

CACPT Merit Awards

Showcasing Planning Technicians.....

We look forward to your entries (this includes students)!!

Download the application at http://www.cacpt.org/merit_awards.php

Eligibility Criteria

- Any member may submit an application if they have played a substantial role in the project.
- Any member may nominate another member and project for this award.
- All entrants must certify that the client and/or employer is aware and supportive of the submission for the award.
- For student members, submissions must be accompanied by a letter from the supervising faculty supporting the project and its originality.

Judging Criteria

The project and/or the person

- Shows high level of technical knowledge.
- Significant contribution to technical works.
- Consistent professional attitude and assistance to others.
- For student members, submissions must be accompanied by a letter from the supervising faculty supporting the project and its originality.

Categories

- Geomatics Award - given for best project in GIS, Topography, or Cartography.
- Reports or Studies - given for reports pertaining to all fields of planning.
- Design - given for designs prepared in any field of planning.
- Social Services/Environmental Field - To recognize projects or work done in the social or environmental fields such as health agencies, school boards, conservation authorities and non governmental agencies.
- Utility/Energy Field - To recognize efforts and projects completed by members in the energy or utility companies.
- Technical Employer - To recognize employers who show support for CACPT, certification, membership, professional development, volunteerism, and/or promotion of Planning Technicians within their organization.

Our Members...

New & Upgraded Associate Members

Natasha Goriel, Planning Technician, Counterpoint Engineering, ON
Jessica Gunby, Planning Technician, Township of Georgian Bay, ON
William Lavell, GIS Technician, Self Employed, BC
Brandon Lemon
Eddy Mysliwiec
Dave Szotak
Simone Wiley, Director of Development, Town of High Level, AB

New & Upgraded Full Members

Steve Boich, Planning Technician, City of Hamilton, ON
Onkar Buttar, Planning Technician, City of Port Coquitlam, BC
Eric Chow, Manager of Planning & Development, Town of Peace River, AB
Nick Coric, Planning Technician, Glen Schnarr & Associates, ON
Matthew Davis, Planning Technician, Corporation of Haldimand County, ON
Gail Gibeau, Development Officer, Municipal District of Willow Creek, AB
Joe Gravina, Business Facilitator, City of Hamilton, ON
Benita Senkevics, Senior Design Tech, Monteith Brown Planning Consultants, ON
Kyle Strik, Planning Technician, Town of Uxbridge, ON
Troy VanBuskirk, Planning Technician, Town of Fort Erie, ON



OPPI Conference – Celebrating 25 Years & Counting: Tackling the Biggest Challenges to Planning and the Profession

Join us at the brand new Ottawa Convention Centre for the 2011 Conference. This year the Ontario Professional Planners Institute turns 25. It's a good time to re-examine assumptions, take stock and build awareness about our profession and its relevance to the world around us. Save the date and plan to join us.

Further information and the preliminary program are available at:

www.ontarioplanners.on.ca/content/symposium/index.aspx



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Jay Muncaster (Fanshawe)

Megan Chambers (Mohawk)
Melissa Nottley (Mohawk)
Sean O'Raw (Mohawk)

TechTalk Editor Becky Dahl, CPT



CACPT - Providing a Voice for Planning Technicians

The right to title, professional recognition and status that you can gain through registration with the **Canadian Association of Certified Planning Technicians (CACPT)** are a vital part of your career portfolio. As a member, you have proven that you meet stringent national standards, follow a code of ethics and have access to other professional members. Our national standing gives you the ease of certification throughout Canada.

CACPT helps to define your profession and supports you with information and contacts.
USE US, GET INVOLVED AND EXPAND YOUR KNOWLEDGE BASE!

CACPT Accredited College Programs

Fanshawe College, Urban and Regional Planning Technology (GIS/CAD) (London, ON)
Mohawk College, Urban and Regional Planning Technician with GIS (Hamilton, ON)
College of Geographic Sciences, Planning Land Information Technology (Lawrencetown, NS)
Langara College, Applied Urban and Regional Planning Program (Vancouver, BC)

Accredited Programs Not Currently in Operation

Holland College (Summerside, PEI)
Northern Alberta Institute of Technology (Edmonton, AB)
Sheridan College (Oakville, ON)

New College Program in Operation - Accreditation Pending

Fanshawe College, Integrated Land Planning Technologies (Bachelor's Degree) (London, ON)
Olds College, Rural Land Use Planning Major/Land and Water Resources (Accreditation Review 2011) (Olds, Alberta)