

**A CONCEPTUAL PLAN
FOR
LAND USE DESIGNATION AND MANAGEMENT
OF THE
FEDERAL AND PROVINCIAL PUBLIC LANDS
IN
PICKERING, MARKHAM AND UXBRIDGE**

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***Don't it alway seem to go,
That you don't know what you've got,
'till its gone.
They paved paradise and put up a parking lot.***

Joni Mitchell, Canadian Songwriter

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CONTENTS

	Page
1. Summary Highlights	2
2. Background	5
3. Recommendations	8

"Selling off lands to the highest bidder, which would continue the pattern of adjacent suburban sprawl would squander an opportunity to provide a better model for future use of near urban open space."

...

"The federal and provincial governments should co-operate to ensure that portions of the lands are used for agricultural purposes and create a living, functioning countryside, in which there is a special emphasis on practices that sustain the environment and preserve future options for a green gateway to the city."

Watershed Report of the Royal Commission on the Future of the Toronto Waterfront

1

SUMMARY HIGHLIGHTS

The Green Door Alliance Inc. (GDA) has researched land use and management options for the 58 sq. miles of public land at Pickering which was expropriated in 1972 to accommodate plans for an international airport and new city. This report summarizes the results of that research and sets out recommendations based on it. A central recommendation is that a land trust management structure be established which is mandated to build a healthy rural community, preserve agricultural capability, encourage food industry development and conserve and enhance natural attributes.

For 23 years the federal government has managed the land it expropriated as if an airport were imminent. Barns and homes have been demolished, agricultural fertility impaired, investment discouraged, stewardship and the sense of community ignored.

Recent initiatives are more encouraging. The Honourable Douglas Young, when Transport Minister, announced the government's commitment to expand Pearson airport to a passenger capacity of at least 3 times present use. This is proceeding. As a result a major airport at Pickering is extremely improbable and, if ever needed, it will certainly be 30 or more years in the future. Both the federal and provincial governments support the Rouge Park. New federal MP.s have responded positively to conservation and opposed an environmentally negative plan to sell bits and pieces of the federal lands. Also, the Ontario Legislature and the Council of the City of Toronto passed a resolutions supporting the Green Door Alliance Inc. (GDA) Vision and Plan for the public lands.

This 58 square miles of public land includes some of the Rouge Park, a provincial 8,000 acre agricultural preserve, the 18,600 acre Pickering airport site and Ontario lands surrounding the proposed compact developments of Seaton and Cornell. About 90% of the land is prime foodland (Canada Land Inventory Classes 1 to 3). The other 10% includes the Rouge and Duffins wooded valleys, wetlands and streams which extend from Lake Ontario to the Oak Ridges Moraine. They provide an unique system of wildlife corridors, habitat and fishery enhancement opportunity.

Some of the management options examined were: continued government control, private ownership with and without conservation agreements and covenants, park status, conservation authority direction and conservation trust management.

Fee simple (i.e., without conservation agreements) private ownership was rejected due to the inherent weaknesses of municipal/provincial land-use planning - urban sprawl would almost certainly occur. Management by Public

Works Canada or Ontario's Management Board of Cabinet has already proven inadequate to the challenge of ideal stewardship.

The GDA proposes that the lands be privatized through a **Conservation Land Trust** which would register conservation agreements on the land title. The Conservation Land Trust would be mandated to conserve and enhance the natural areas, agricultural capability and sense of community. A conservation trust is a flexible management vehicle which could apply, over time, a broad range of strategies to resolve inherent conflicts and claims (e.g., sale with conservation agreements, long term leases, stewardship agreements, and sale and lease strategies that assure compassionate treatment of current tenants). A Conservation Land Trust could be a Crown corporation or an incorporated entity with charitable status. The existing Canada Lands Company Limited has a mandate which could be adapted to this challenge.

Stripped of its legal and planning language and framework, the essence of the Green Door Alliance proposal is:

- to privatize the public lands,
- to consolidate land into farm units with a dwelling and farm building, where possible,
- to sell houses in the hamlets and clusters, fee simple,
- to use conservation agreements to preserve agricultural capability, natural areas and water resources,
- to re-establish a viable rural farm community, countryside and food industry.

The Land Trust Option

A land trust is non partisan, non political, citizen driven corporation. It has many advantages.

- It shields both governments from criticism arising from direct bureaucratic control.
- It benefits from local talent and community participation in decisions.
- It returns capital to the government and avoids on going government administration costs.
- It resolves tenant anxiety.
- It provides employment and economic stimulus rebuilding farm buildings, dwellings, fences and agri-business.
- It supports the conservation goals of both governments.

Sale with conservation agreements and stewardship agreements, and long-term leases would assure conservation tillage, natural area protection and enhancement, and a healthy countryside - an ecosystem of farms, natural areas, woodlots and watersheds - **An Unique Green Door to Metro Toronto.**

The federal and provincial governments have the unique opportunity to support creatively the agriculture of Canada and Ontario, to conserve nationally important natural heritage systems and to protect and enhance a priceless heritage of a scale, quality and character of which no other major city in the world can boast. We have a magnificent public asset. As we have learned many times over, however, such a resource can be squandered easily: and once lost, it is gone forever.

The Green Door Alliance Recommendations are stated on pages 8 to 12.

2 BACKGROUND

"A sustainable agriculture begins with the conservation of prime and unique soils; those that yield the greatest harvests at the lowest cost of production and with the fewest environmental impacts. For every acre of the "good stuff" that we cover with concrete, for every ton of topsoil we lose to erosion, we are forced to rely that much more on fragile lands - wetlands, deserts - and on technological fixes - fuel, fertilizers, chemicals - whose impact on human and planetary health we do not fully understand. We must steer Urban development away from our most fertile agricultural soils and prevent the erosion of this precious resource, the six inch deep veneer that sustains all life on Earth."

Patrick F. Noonan, Chairman of the Board, American Farmland Trust.

In 1972 a federal plan for a large international airport, and a provincial scheme to build an accompanying city (at the time referred to as Cedarwood) with a population of 250,000 resulted in the expropriation of about 60 square miles of countryside, bordering Metropolitan Toronto (see map on page 8). One of the goals of the Government of Ontario was to encourage development to the east of Toronto, thereby relieving increasing population pressures to the west of Toronto.

Following the announcement of the expropriations there was substantial public protest. The public protest along with the lobbying efforts of expropriated owners, environmentalists, the aviation industry and most surrounding municipalities resulted in the Provincial Government reviewing the assumptions upon which its commitment to a second international airport was based. At the same time, the experience of the two airport system at Montreal provided evidence that a two airport system was not economically viable. The Provincial Government concluded that "an airport at the Pickering site could not be viable" and that an expansion of Pearson International Airport provides the least cost/most benefit option for satisfying the long term aviation needs of Ontario.

On the basis of this, the Provincial Government announced on 24 September 1975 that it was not prepared to bear the cost of providing services. Following this provincial announcement both governments cancelled their plans, although it remained the position of the Federal Government that a new international airport was needed and that eventually a new agreement with the Province would have to be struck.

Almost 21 years after the provincial announcement that it would not provide services and 24 years after the expropriation, the Federal Government is

still holding all the land it expropriated and the Provincial Government is holding most of the land it expropriated.

In 1985 the Pickering Airport Lands Revitalization Committee (P.A.R.C.) was appointed by federal order-in-council to: "*examine strategies for the federally owned lands which would assure maximization of their agricultural potential and aid in the preservation of a sense of community.*" The Department of Land Resource Science of The University of Guelph was hired to examine rural planning, agricultural and community issues affecting the federal lands. Following submission of the P.A.R.C. Report, the Federal Government announced that 9,600 acres were surplus to its needs and would be sold. The borders were surveyed, discussions took place with previous owners, tenants, environmentalists and other governments. No consensus was reached on price and priority, and nothing was done.

For almost all the period from 1975 to the present, the federally held land has been managed by Public Works Canada. Its management strategy and process during this period is one of the great tragedies of this saga. Under its management there has been significant deterioration of the dwellings and barns and a considerable amount of poor stewardship of the foodland. The University of Guelph reported in 1985 a lack of responsible stewardship, for example; intensive cash crop monoculture (50% corn) causing erosion, compaction and excessive herbicide and insecticide use. Short term leases and uncertain tenure have continued to discourage land stewardship. There has been little maintenance, frequent demolitions, no investment in fences, farm buildings, tile drainage or woodlot management. Agricultural practices have resulted in negative impacts on the cold-water fisheries in the area. Many dwellings are boarded up, others have been destroyed, and a large proportion of those still in use are in need of repair. The farm services and infrastructure have gradually dissipated as have community organizations such as local churches. Fortunately, the land has shown considerable resilience and, hence, is still a great asset. However, such resilience has limits and another decade of mismanagement is likely to exceed those limits.

The provincially held lands, while suffering some of the same effects, have fared somewhat better in the last few years than the federally held lands. The province has been more resourceful and proactive. Recent initiatives have included the creation (with federal cooperation) of the Rouge Park. Concurrent with this, the NDP Government announced an 8,000 acre Permanent Agricultural Preserve. It also designated 1,200 acres for urban expansion which is to be matched with a 1,200 acre addition to the previously announced Rouge Park. The current government has announced that it will privatize the Agricultural Preserve but that it is committed to privatizing it as agricultural land. These initiatives notwithstanding, a large amount of land remains undesignated. The development of a compact community called Seaton is being studied but even if Seaton is built a large amount of foodland east of the West Duffins Creek

will be available for agriculture¹. The stated goals of the Provincial Government for the provincial lands seem to be agriculturally and environmentally focused. The actual nature of privatization will determine the strength of commitment to these goals. At present the Provincial Government has resisted placing conservation agreements on the lands proposed for privatized. Without such agreements the long-term preservation of these lands as agricultural or natural areas is unlikely.

In conclusion, by fortuitous circumstances, approximately 58 square miles of natural areas and farmland, within the Greater Toronto Area (GTA), have been protected from urban sprawl. These public lands are a very valuable, irreplaceable resource, with high quality soil, favourable agricultural climate, a nationally important system of natural areas (Oak Ridges Moraine, West Duffins Creek valley, Rouge Park), all within and in close proximity to Canada's largest urban center. The federal and provincial governments have the unique opportunity to support creatively the agriculture of Canada and Ontario, to conserve nationally important natural heritage systems and to protect and enhance a priceless heritage of a scale, quality and character of which no other major city in the world can boast. We have a magnificent public asset. As we have learned many times over, however, such a resource can be squandered easily: and once lost, it is gone forever.

¹ The specific amount and location of land required for Seaton is under study. Hence, the land available for other purposes will have to await the outcome of the study

3 RECOMMENDATIONS

The combined federal and provincial holdings constitutes a large parcel of land within the Greater Toronto Area. A successful strategy must recognize the existing diversity of use and the existing diversity of features. Hence, a successful plan must have a mix of land uses and options.

The central recommendations of this report recognize: 1 the overall need for preservation, conservation and enhancement of a valuable provincial and national resource; 2 the value and suitability of private ownership; and 3 the value and need for protecting foodland and enhancing productive use of it². (1) and (3) can be balanced with (2) by the use of conservation agreements (see pp. 32-33). These conservation agreements would ensure protection of the land from urban sprawl while capturing the many advantages of private ownership.

The detailed rationale for the following recommendations is found in sections 4 and 5 of this plan.

RECOMMENDATION 1: A Conservation Land Trust should be established with advisory committees (e.g., a conservation committee, a foodland committee, a recreation committee, etc.). It could operate under the authority of an act of the Legislature of Ontario as a Crown Corporation, or as a provincially incorporated entity registered as a charity under the Income Tax Act (Canada), or as a corporate subsidiary of the Canada Lands Corporation Limited, or any combination of the above.

The purposes of the trust should be clearly articulated in its mandate. The purposes should include:

- protection, restoration and enhancement of natural areas, in a natural features system,
- preservation of agricultural capability,
- fostering family farm enterprises,
- protection of ground and surface water,
- re-establishment, and subsequent sustenance, of community life,
- implementation of comprehensive, ecosystem, watershed and natural heritage planning,
- protection of the cultural heritage of the area,
- provision of public access and recreational opportunity,
- encouragement of farm enterprises and food industry investment
- Generation of revenue for the two levels of governments.

² Preservation of agricultural capability assures the future of the second most important industry and employer in the Regional Municipality of Durham. A growing body of evidence on world population trends and agricultural capacity points to agriculture as a growth industry.

If the Trust operates as an incorporated charity, there are a number of legal considerations surrounding the purchase and disposition of property which require attention. Under the *Charities Accounting Act*, an organization with federal charitable status can only use or occupy land for the organization's charitable purposes, and not for the purpose of investment. Whether the selling or leasing of properties as suggested below by a trust constitutes an investment would need to be investigated. If the proposed activities are deemed to be an investment, then a land transfer strategy should be employed which achieves the objectives of the Trust. For example, the Trust might acquire enforcement powers of conservation agreements and full interest in leases after the appropriate level of government has sold properties with registered agreements and signed leases in accordance with the recommendations below.

This strategy also has the benefit of avoiding certain restrictions in section 50 of the *Planning Act* which limits the disposition of land where some portion is retained as part of the arrangement. The *Act* also limits leases in certain situations to less than 21 years. Governments are exempted from these rules; a trust would not be.

Further legal work is needed, as well as consultation with all levels of government, to determine the most appropriate legal framework and timing for the establishment of a trust and the transferring of leases and the enforcement powers over conservation agreements.

RECOMMENDATION 2: The Trust should be self-financing.

RECOMMENDATION 3: The Government of Canada and the Government of Ontario should relinquish control of all land intended for agricultural use and all natural areas by transferring control to The Conservation Land Trust.

Ideally, title should be transferred to the Trust which would then sell and lease the land as appropriate and consistent with its purposes and with these recommendations. If its status as a charity or other legislation make this difficult or impossible, the Federal or Provincial Government should sell and lease portions of the land on the advice of the board of the Trust and then transfer control over the conservation agreements on properties sold and full interest in the leases on properties leased. Title on land not sold or leased should be transferred to the Trust.

If an arrangement can be made with the Government of Ontario to place the 8,000 acre Provincial Agricultural Preserve and all the agricultural lands residual to those required for the urban development of Seaton City and Cornell into the trust along with the federal lands, then a single trust should be given title to the entire package. If such an arrangement is not achieved, the Government of Canada should establish The Canada Conservation Land Trust (possibly a

subsidiary of the Canada Lands Company Limited) and transfer all interest in its holdings to that trust³.

Plans for the Rouge Park are linked to the thrust of this recommendation in that some federal and some additional provincial land should be added to the Rouge Park rather than being placed under the control of the Trust. This depends on the arrangements for the Rouge Park being finalized in the immediate future. Hence, we are of the view that protection of some of the natural areas and corridors of the public lands could be best achieved if the Government of Ontario proceeded as quickly as possible to finalize arrangements for the Rouge Park and if, subsequently, the provincial and federal governments added to the current Rouge Park the corridors and forest nodes of the Little Rouge River watershed.

RECOMMENDATION 4: The Conservation Land Trust should employ a mix of land use and management options. In particular:

- **properties in the existing community of Brougham should be sold, fee simple, as opportunities arise⁴;**
- **the natural features system will be protected and enhanced, as appropriate, by direct management by the Trust, by lease agreement or by a conservation agreement;**
- **agricultural land should be consolidated, where possible, into not less than 50 acre parcels (this is a minimum; the guiding principle of consolidation should be the assembling of parcels appropriate for meaningful agricultural use);**
- **agricultural properties which are sold will be sold with conservation agreements which will conserve the land by placing restrictions on land use;**
- **where land which is to be leased, the lease should have a term of not less than 20 years with renewal clauses, and appropriate conservation agreements and lease covenants to ensure conservation farming practices and protection of adjacent natural areas.**

RECOMMENDATION 5: Protection of the Natural Heritage Systems should be achieved by prohibiting all development. A natural area that is part of a farm property which is sold or leased will be protected by a conservation agreement which prohibits development and assigns stewardship to the property owner or lessee. Monitoring and enforcing the agreement conditions will rest with the Trust.

³ An interesting model to examine is the Canada Land Corporation (Mirabel).

⁴ Cedargrove east of the 10th concession and other existing community clusters should be dealt with on a case by case basis **consistent with current municipal plans**. Altona and Glasgow are on the Oak Ridges Moraine. Determination of sale or development in these communities is, therefore, contingent on the requirements for protection of the Oak Ridges Moraine.

Valley corridors will include tableland components to protect against injurious uses and to enable restoration. These should be determined, as recommended in the Rouge Park plan: 300 meters from the top of the bank on major rivers and 30 meters on tributaries.

Compatible recreational activities (e.g., hiking) may be allowed on natural heritage systems. The conservation agreements will specify the character and extent of recreational uses.

Restoration and enhancement will proceed on a priority basis, recognizing the current uses and users

RECOMMENDATION 6: Protection of the Oak Ridges Moraine should be achieved by restricting activity to compatible recreational uses and existing agriculture and settlement.

Provincial land use controls that may arise from the Oak Ridges Moraine initiative should be regarded as a minimum level of protection.

RECOMMENDATION 7: In moving to the mix of uses recommended in (4) above, eviction of existing tenants from dwellings, except for just cause, must be avoided.

This area is stained with grief resulting from the initial expropriation and subsequent government decisions (e.g., the recent - now abandoned - plan to sell off 5,100 acres of "surplus land"). Evictions would continue this legacy of grief. Although the goal is privatization, this can only be achieved as leases expire and tenants move. Lifetime leases may provide a means to treat elderly tenants with compassion.

Implementation of this recommendation will require a case by case analysis of the circumstances of each lessee of a dwelling. In some cases sale with conservation agreements, consistent with the above recommendations and the stated goals of those recommendations, may be appropriate. In others, long-term leases with conservation agreements and a reduced acreage associated with the dwelling may be appropriate.

RECOMMENDATION 8: Properties sold should be offered first to current tenants.

A number of individuals and families who were expropriated remained in their dwellings as tenants. In addition to giving them the option to purchase back their properties, consideration should be given to rate of increase in real estate values relative to CPI. The appropriate conceptualization of this situation is that original owners should not be financially penalized by the expropriation of their

property. Hence, to the extent that real estate values have increased more than the increase in the value of prudently invested funds, a commensurate reduction in the offering price should be made⁵.

Leasehold improvements that have been undertaken by tenants and that affect the market value of a property should be netted against the relevant offering price.

⁵ One financial model for determining the value for previous owners who are currently tenants is that the property should be valued at the expropriated price plus investment earnings on that expropriation price equivalent to the interest on five year GIC's minus CPI compounded yearly from the date of expropriation.

**Then the coal company came with the world's largest shovel,
And they tortured the timber and stripped all the land.
Well, they dug for their coal 'till the land was forsaken,
Then they wrote it all down as the progress of man.**

**And Daddy, won't you take me back to Muhlenberg County,
Down by the Green River where Paradise lay.
Well, I'm sorry, my son, but you're too late in asking,
Mister Peabody's coal train has hauled it away.**

John Prine, American songwriter