TO: Members of The Madawaska Club of Go Home Bay

FROM: Doug Grundy, Land Stewardship Committee

RE: Draft Conservation Agreement with The Georgian Bay Land Trust Foundation Inc.

 On behalf of the Land Stewardship Committee and the Board of the Club (and as the person who is probably most responsible for this draft), I attach a draft Conservation Agreement for review and comment by members of the Club (and, I hope, family members who may not yet have become members of the Club). This draft is being circulated as the next step in the consideration by the Club of whether or not to proceed with the proposal to enter into a Conservation Agreement with GBLT. As you are no doubt aware, at the meeting held earlier this spring, over 85% of members of the Club voted in favour of proceeding to settle a Conservation Agreement with GBLT so that a final form of Conservation Agreement could be presented to the members of the Club for their final consideration. The members of the Land Stewardship Committee will be available throughout the summer to discuss this draft with Community members who have reviewed it and who have questions or comments regarding the draft.

What has gone into the preparation of this draft?

 During the past year or two as I have prepared and revised this draft, I reviewed precedent forms of conservation agreements that have been used by various conservation bodies in Canada. I was provided with a precedent conservation agreement by GBLT. Although this draft is based upon the precedent conservation agreement provided by GBLT, it has been revised and modified significantly from that precedent in order to reflect several aspects of the agreement which I consider to be unique to the Club’s situation and the goals of our membership.

 Earlier drafts have been reviewed by members of the LSC, members of the Club’s Board and by an independent lawyer who has considerable experience in negotiating and settling conservation agreements on behalf of conservation bodies (including GBLT) and property owners. I have discussed this and prior drafts with Bill Lougheed who, in his position as Executive Director of GBLT and a Go Home community member, has provided helpful comments from both perspectives (including comments based on discussions that Bill has had with the legal counsel that GBLT has engaged to act on its behalf in settling the form of agreement that members will be asked to consider).

 At least one earlier draft was circulated to the Go Home Bay community. Comments on that draft were made by a few members of the community and I have considered, and to the extent able reflected, those comments in the continuing process of preparing this draft. The LSC has also discussed and considered comments received during, and following, the several community meetings that have been held over the past several years as this proposal has been advanced.

Summary of the draft Conservation Agreement

 I am hopeful that the following bullet points will aid you in your review and understanding of the Conservation Agreement, its provisions and its impact on the Club and our community:

* The Agreement will govern the Club’s “Open Lands”. While other materials provided by the LSC detail the Open Lands, in essence, these are the lands which are currently zoned under our community plan as “open space” on which development is prohibited. Principally, this includes the outside of Long Island, the interior of Big Island and the mainland areas along the Pittsburgh and south of the caretaker’s site.
* “Open Lands” does not include the two unallocated building sites, Pig Island or the Main Dock area and caretaker’s site, all of which are zoned so as to permit residential or community development.
* Significant defined terms include “Authorized Person”, “Conservation Intent”, “Natural Values and Features” and “Permitted Activities”.
* “Authorized Persons” is a term used to identify those persons who are eligible to enter upon and use the Open Lands. The Agreement will not grant any access to third parties maintaining the private nature of the Club’s property as exists with its current ownership. The definition is, however, intended to be broad enough to include all community members, recognizing that many community members are not “Siteholding” or “Community” members of the Club.
* “Conservation Intent” is intentional wording introduced to this Agreement in order to state expressly the purpose and intent of the Club in entering into this Agreement (See Section 2.2). GBLT acknowledges this intent and agrees to support this intent in its role as the conservation body (See Section 2.3). Both the Club and GBLT agree that the Agreement shall be interpreted in accordance with this intent. Under contract law, any court is required to give effect to this intent if asked to interpret any part of the Agreement.
* “Natural Values and Features” is a definition that describes the characteristics of the Open Lands that are to be protected by the proposed arrangement.
* “Permitted Activities” defines the recreational, research and social activities that the Club and Authorized Persons will be permitted to continue on the Open Lands. The activities listed in Schedule “C” are expressly permitted. The definition allows for additional activities to be permitted so long as they are consistent and compatible with the Conservation Intent and are not destructive to the Natural Features and Values of the Open Lands. (See also Section 4.2)
* GBLT acknowledges that the Open Lands will remain as private property of the Club. GBLT is granted a limited right of access to inspect the Open Lands to confirm continued compliance with the Agreement. (See Article 5). GBLT will not promote the property to the public. (See Section 2.5)
* The Agreement expressly provides that third parties other than the Club and GBLT cannot benefit from the Agreement and have no right to enforce the terms of the Agreement. This provision does not limit certain limited statutory rights granted to the Minister of Natural Resources (Ontario).
* The Club’s ownership rights and responsibilities are set out in Article 6. Note that in this Article, GBLT acknowledges and agrees that the Club is not able to monitor or restrict access to the Open Lands continuously or on a year-round basis. (See Section 6.1)

Considerations regarding Comments

 It is customary for a conservation body to compensate the property owner for its conservation commitment. It is also customary for the commitment made by the property owner to be “perpetual”. Traditionally, a “perpetual” commitment is one made for 999 years in order for the conservation body to qualify the arrangement for government support. In order to obtain government support, the conservation body needs to demonstrate that it has the resources to enable it to fund its ongoing monitoring responsibilities.

 We are anxious to receive the input of members of the Club and their families. It is important that an agreement reflect the wishes of this Community. Members of the LSC will be available throughout the summer to speak with members at the dock at coffee and at library. You may also send email comments to me (dgrundy.gcpc@gmail.com) or to any other member of the LSC. The LSC also expects to hold an in-person and zoom meeting to receive comments or questions.