

On Common Ground: [The Podcast](#)

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Montreal, Quebec
April, 2022

A report submitted to the School of Urban Planning in conformity with the requirements of the
degree of Master of Urban Planning

Acknowledgements

I would like to thank Professor Anna Kramer, my supervisor and mentor, who provided me with guidance and encouragement throughout this project. From the moment I introduced my ideas to Professor Kramer, she recommended several scholars and pieces of literature that would provide the foundation for the project. She encouraged my podcast and gave me the creative freedom to direct this project in a way that gave it meaning and taught me a great deal. Her support and guidance throughout this project was fundamental to my success.

I would also like to thank all the guests I interviewed for the podcast: Dr. Matthew Anderson, Zane Davey, Jenna McGuire, Ken Ilgunas, Joel Swagerman, Spencer Dunn, David Ruppel, Andrée Lovell, Don May, and Pat Bollenberghe. Their professional expertise, personal stories, and careful reflections helped me to tell stories and develop a greater appreciation for a world where we all have greater access to land. Their openness and willingness to share their experiences with land and access is what made this podcast possible, and for that I am grateful.

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1.0 Introduction

The *On Common Ground* podcast series challenges dominant property regimes that hinder access to the public and explores alternatives to provide access to land for all. The discussions I had with my guests grew out of the foundational work of scholars Nicholas Blomley and Heather Dorries.

Nicholas Blomley specializes in topics related to legal geographies with a particular interest in property. In *Precarious Territory*, Blomley (2019) moves away from the rather simplistic concept of property in which there are insiders and outsiders, and instead introduces the idea that property involves varied levels of access depending on one's relationship with property and other parties. Blomley (2019) takes a relational approach to access and use of property, which is settled in property law. Property law not only formalizes, bounds, clarifies, and restricts one's use of property, but contributes to the precarity of property, which places one party in positions of power and security, and another party in positions of scarcity and vulnerability (Blomley, 2019). One's position within this property dynamic will determine their level of access.

As Blomley (2019) discusses, access to land and property is not simply a question of who's in and who's out, but rather it is a web of relations that determine the level of access. The most prominent example of this is the tenant-landlord relationship, where landlords are sole proprietors that have power over tenants and thus determine the conditions of tenants' access to that property. This dynamic renders tenants vulnerable to the decisions of the landlord (Blomley, 2019). Because it is impossible to disentangle property ownership from racial capitalism and colonization, these power relations mirror the social order, making racialized people more vulnerable under property law (Blomely, 2019).

Colonization and dispossession of Indigenous people lays the foundation of private property in North America, and land use planning that is centered around property rights and ownership as citizenship, perpetuates this colonization (Blomley, 2019; Dorries, 2022). The theft of land through unhonoured treaty agreements worked to sever Indigenous peoples relationships with land. What followed is forced assimilation, and the creation of private property (Lindberg, 2018). A critical analysis of private property and law is not whole without the recognition of planning practice in maintaining and perpetuating colonial notions of private property (Dorries, 2022).

Throughout the series, listeners hear from guests about our system of private property and the potential for re-imagining it to provide more opportunities for public access. Guests provide their rationale for why we must encourage greater access to land and what this can do for the fabric of our society.

1.1 Context

My research on the questions of property, access, and land in planning takes the form of a podcast. I interview guests who help me understand the potential of planning for undoing strong private property rights and exclusionary ownership models, and the opportunities for creating a common ground.

One of the guests on the show is author and journalist Ken Ilgunas. Ken has written several books and articles on the Right to Roam, and now lives in Scotland where he can exercise this right on a daily basis. The Right to Roam is an umbrella term that refers to various policies that grant public access to public and private lands, most commonly in the countryside. These policies demonstrate access to land that does not hinge on a sole owner.

Ken points to two things that this unfettered access can do; the curation of civic mindedness and a growing sense of equality. He explains how getting out into nature, whether that be in the countryside on private property, in a public park, or a forest, can bring us closer to our neighbours and community members who are also engaging with this right. Ken describes his experience in Scotland and how he can leave his front door step and be on a trail where he sees his neighbours and builds relationships with them over time. As more access is provided it encourages people to get out onto trails or other lands that would normally be inaccessible because of private property. People build community on these trails, which ultimately leads to a greater sense of civiness and belonging.

Ken also talks about the sense of equality that public access to private lands brings. Income inequality is reflected in the space; we see it when we walk or drive past large swaths of private land with homes on them, or when we walk along the beach and see homes set back with access to the shoreline and waterfront views. Ken discusses how this feeling of inequality is softened when all people have access to that same land. It of course does not address the actual systemic cause of inequality, but if people feel they have the freedom to walk on lands, it

might feel like they also have some form of ownership of the land. Universal access can equalize things, which is good for the fabric of a society.

A theme that arises frequently in the first and second episodes is relationality. My guests and I discuss the idea that improving access to land can help achieve a relationality shift with land. Colonial planning frameworks have relied heavily on land use as a means to organize land with the intention of producing positive outcomes for the general public (Hirt, 2014). This can be seen in the segregation of uses through official plans and zoning by-laws that organize residential, commercial, industrial, and institutional uses across space. The idea behind this segregation is to limit nuisances between land uses, the most prominent example being to separate residential and industrial land uses to ensure people are not living next to polluting factories. Land use is a foundational component to urban planning as it organizes activities across space.

There is also a philosophical component to land use: land use implies extraction and exploitation of land. Within this land use paradigm, there is inherently something of use that owners receive from land. Land use implies that an owner, whether that be an individual, corporation, or the state, has the right to control land. This ideology neglects the permanence and interconnectedness of land and ecological systems. Shifting to a relational understanding of land opens up an opportunity to see how humans can fit into the natural world, rather than how we can make the natural world adapt to us.

Affiliate Professor of Theological Studies at Concordia University, Dr. Matthew Anderson, points to Indigenous writers such as Chelsea Vowel and James Daschuk for improving his understanding of relationality. Matthew talks about how walking through nature allows us to experience how we are in relation to nature, rather than seeing how land and nature belongs to us. You begin to understand how humans are actually a part of a greater natural ecosystem. That shift offers an opportunity to move beyond the bounds of property ownership, towards an understanding that land is inherently un-ownable. As mentioned previously, land use and private property imply that land is something that can be controlled and tamed through ownership. Land relationality rejects this way of thinking and embraces a collective care for land.

In June of 2019, the Ontario Professional Planning Institute (OPPI) created the Report of the Indigenous Planning Perspectives Task Force in response to the Calls to Action laid out by the

Truth and Reconciliation Commission of Canada. The task force conducted research using interviews, focus groups, and advisory committees that were made up of Indigenous stakeholders. The report recognizes planning as a colonial tool that perpetuates land use and private property, while neglecting responsibility to steward the land we develop human settlements on (OPPI, 2019). A prominent theme that emerged from interviews with Indigenous stakeholders is the disconnect between land use and land relationships. One participant writes “Land use – we need to term it differently. It’s not there for our use. It should be “land relationship planning.” Building a relationship with the land around us. Take into consideration what the land is telling us. Everything that is alive is our brothers and sisters” (OPPI, 2019). This quote is powerful and encapsulates a lot of the experiences with land that my guests spoke about on the podcast.

Moving towards “land relationship planning” allows us to abandon the exploitative and extractive nature of ownership, and towards collective management that centers around care for the land. This relationality shift can achieve two things. First, we can veer away from our current system which centers around a sole owner having unfettered access to land while either barring others from having access, or creating conditions to grant that access, reinforcing power dynamics under property law. And second, with greater access to natural spaces, people will have the ability to build relationships with land, feel more connected to the land, and thus are more likely to achieve environmental consciousness that can assist in our struggle against climate change.

In *What is planning without property*, author Heather Dorries (2022) writes: “Planning without property would support practices of being and belonging rather than practices of exclusion and dominance” (p. 10). As Blomley (2019) and Dorries (2022) discuss in their works, planning and property law hinge on the exclusion of people. Without owning property, you are cast out of that space and your access to it is conditional on property law and the decisions dictated by the owner. The idea of exclusive ownership is central to the practice of citizenship in liberal capitalism (Blomley, 2019). Our institutions embrace private property rights and land use planning works to regulate these rights on behalf of the public. Because private property is ingrained in liberal capitalist society, plans and policies are centered around the rights and privileges of private owners, and neglect the right to land and access for the general public.

Shifting relationalities and improving access to land sets the tone for inclusion, and as Dorries writes, will propel us towards values of “belonging and care” (Dorries, 2022). Through my discussions with guests and a review of Blomley and Dorries works, I believe that this relationality shift is crucial to approaching a world without such strong ties to private property and bringing Indigenous ways of land management and stewardship to the forefront of planning.

This report supplements the podcast series by grounding the discussions I had with guests in theory, explaining the process of creating the show, and presenting the tools and opportunities available for transforming our land planning into something that encourages access to land for all and builds relationships between communities and the land.

2.0 The Process

My Supervised Research Project followed an unconventional route with the final result being a podcast series and supplementary report. Using a podcast as the communication medium for this project allowed me to tell a story about land and access that is accessible to the general public. My research involved semi-structured interviews with planning practitioners, writers and journalists, academics, community organizers, landowners, and walkers. Prior to the interviews I curated a set of questions, but ultimately allowed conversations with guests to lead the discussions. These interviews were conducted via zoom and recorded, with consent from the interviewees. The audio was then put through post-production software, edited, and used for the podcast.

Before conducting the interviews I developed three episode sketches: Indigenous land access, the Right to Roam, and waterfront property. I researched potential interview candidates and reached out to them via email explaining my project and gauging their interest. Once I secured interviews, I developed a list of questions and sent them to my guests prior to our formal interview.

After interviewing each guest, I would carefully listen to the audio, making notes of which sections to keep and deleting the sections that were not relevant. From this, I began crafting a narrative and envisioning how each episode would unfold. I had to carefully construct each episode and ensure it had logical flow and that the listener could easily follow along. My goal

was to create a narrative that draws people in and excites them regardless of their affinity with the subject matter.

Once the scripts were complete, I began recording my own audio, and editing the interviews. This was the most intensive process of this project. In order to produce a quality product that improves the listening experience, I had to learn how to use post-production and audio-editing software. This involved many hours of fine tuning audio clips to remove background noises, normalizing sound and pitch, and adding music to enhance the listeners experience.

I learned a great deal during this project. I learned how to interview people and what questions to ask that would invite a nuanced and meaningful answer. I learned when conversations were digressing from the subject matter and how to get them back on track. I learned how to edit audio to produce a quality that is enjoyable to listen to. And most importantly I learned how to tell a story. I honed skills in translating technical concepts into language that everyone can understand and I crafted narratives that communicated the power of land, property, and access.

Written and oral communication skills are crucial for urban planners to have and execute well. Building trust and relationships with communities requires clear communication and an ability to listen and understand what the community is asking for. This project allowed me to develop these skills further. It reinforced my understanding of how important stories and narratives are to the human experience. Ultimately it connected me with practitioners and citizens and taught me how important the question of land, ownership, and access is to people's daily lives.

3.0 The Podcast

On Common Ground has three episodes: Episode 1 *Colonization, Private Property, and Indigenous Resistance*, Episode 2, *The Right to Roam*, and Episode 3, *Waterfront Property and Public Access*. Each episode includes interviews with practitioners, thinkers, and doers who are involved in rethinking land and planning around land access. The guests include urban planners and designers, community organizers, authors and journalists, academics, landowners, and walkers to understand how we conceive of property and how we can rethink our system of land use.

The podcast series *On Common Ground* is hosted on Anchor.fm.com and is published to Spotify at Claire de Souza. Please visit this [link](#) to access the podcast.

3.1 Episode 1: Colonization, Private Property, and Indigenous Resistance

In the first episode of the podcast, I discuss themes of dispossession, private property, and forms of Indigenous-led resistance that contest property regimes. Through interviews with guests Dr. Matthew Anderson, Zane Davey, and Jenna McGuire, the listener can learn more about colonial tactics that worked to sever Indigenous peoples' relationship with land, stories and identity tied to land, relationality and access, and forms of resistance that challenge colonial conceptions of property including New Urban Reserves, the Duty to Consult, and the Treaty Land Sharing Network.

Colonization has shaped our understanding of land in the West and has actively tried to suppress the stories and understandings of land that precede it. The Numbered Treaties and the Indian Act intentionally severed Indigenous peoples' relationship with the land, a relationship that is so central to Indigenous culture, language, and identity. To critically assess private property and ownership, one must reckon with the reality that land was stolen from Indigenous people across North America (Dorries, 2022). Planning as a practice reinforces colonial conceptions of property, which facilitated the dispossession of Indigenous people across the country.

Prior to any conversation around land and property, it is critical to understand what Canada did to enforce dispossession and displacement of Indigenous people onto reserve lands. As this dispossession was occurring, the state practiced forced assimilation through the Indian Act, the Numbered Treaties, Residential Schools, the Sixties Scoop, child welfare, and various other state-sanctioned policies. This episode delves into these pieces of legislation more closely and deconstructs the beginnings of colonization and Indigenous dispossession in Canada.

The brief background provided in the episode does not at all encapsulate the kind of systemic oppression and marginalization that Indigenous people experience in this country. The Numbered Treaties and Indian Act mark the beginning of the severed relationship between Nations and land, which has long-standing cultural, social, environmental, and economic implications.

In this episode, I interview Dr. Matthew Anderson, an affiliate professor at Concordia University in Theological Studies who has a particular interest in pilgrimage, mobility, and Indigenous studies from a settler perspective. Our conversations include a review of works by Indigenous

writers, including Chelsea Vowel and James Daschuk, to understand Indigenous relationality with land, the Numbered Treaties and dispossession of Indigenous people specifically in the Canadian Prairies, and how land holds stories, some that are told and others that are intentionally suppressed.

I also speak with an alumni from the School of Urban Planning, Zane Davey, who completed his Supervised Research Project on New Urban Reserves and the Indigenization of Cities. Zane and I discuss the Indian Act as a means to surveil and oppress First Nations, New Urban Reserves and their associated policies, the Treaty Land Entitlement and Additions to Reserves, and the drawbacks to these. We also discuss how to move towards a decolonized planning framework.

The last guest I speak to is Jenna McGuire, executive director of Historic Saugeen Métis. Jenna works as a culture keeper, conducting historical research, traditional skills teaching, and language preservation work. The Historic Saugeen Métis has a Lands and Resources department which works to conduct archeological and cultural assessments of lands in the Saugeen territory that are being developed on. The Historic Saugeen Métis community is consulted as part of the Duty to Consult during significant developments. This Duty to Consult offers an opportunity for public and private actors to build relationships with local Indigenous communities and include Indigenous perspectives into the development process. Jenna and I discuss what this process looks like and what it means for the future of planning and development.

Episode 1: Colonization, Private Property, and Indigenous Resistance

Claire: [00:00:00] Hello everyone, welcome to the first episode of on common ground, a podcast where we look at our system of property ownership and explore different forms of land access that challenge dominant property regimes. I'm your host, Claire.

Paramount to discussions around land ownership and private property is Indigenous land management sovereignty and forms of resistance that challenge colonial conceptions of property. There's a deep divide in this country between Indigenous communities and white settlers. This divide is curated by the continued racism and systemic marginalization that Indigenous folks face.

The question of land and ownership is a central component to this divide, as land has been weaponized to oppress and exclude Indigenous people from economic and political

opportunities in this country. The content discussed today is complex and involves a long history of legislation and policies that require extensive discussion. I am not an expert in this matter. I'm trying to learn and [00:01:00] unlearn systems of property ownership and land management and explore how we can improve everyone's access to land.

We have three guests joining us for today's episode, Dr. Matthew Anderson, Zane Davey, and Jenna McGuire. We will hear more from them shortly.

I encourage listeners to seek out resources and do research to help inform their understanding of the kinds of systemic oppression Indigenous people face in this country. I will include resources that I find helpful in the show notes.

I want to start today's episode with a story about a young man who was shot and killed by a Saskatchewan farmer in 2016. Colton Boushie, a 22 year old Cree man, was with a group of friends driving home one night when they got a flat tire. The friends drove to a farm close by looking for help. Instead, they were met with an angry farmer, Gerard Stanley who shot and killed Boushie.

The aftermath of the murder showed how deeply divided and racist the Canadian prairies are. There were two narratives being told, one that sympathized with the farmer, just trying to protect his castle and [00:02:00] livelihood, ultimately concluding that the murder was justified due to Boushie's so-called trespassing. This narrative gave rise to hate and racist comments on social media and by politicians. When speaking about Stanley a local counselor even said that quote, his only mistake was leaving three witnesses. Another recommended Stanley be given an award for his actions. This line of thinking is what many are calling the castle mentality, which is a belief that a person's yard is their castle, which can and should be protected at all times. The castle mentality encourages the idea of scarcity and that you are at risk of dispossession at any moment. And this risk must be managed at all costs.

The other narrative being told at the time of Boushie's murder and Stanley's trial was one that exposed deep racism ingrained in the Canadian prairies and the rest of the country. Members of the Red Pheasant First Nation called this murder a perfect example of the kind of discrimination Indigenous people face every day in the Prairie's. [00:03:00] Ultimately Boushie was murdered because he was Indigenous. His indigeneity alone was a threat. He was not wandering on Stanley's property. He was not armed. He was not threatening. He existed as an Indigenous man on stolen land.

Gerard Stanley was acquitted of the charges of second degree murder. Defending your castle is the narrative that ultimately prevailed in this case. The criminal justice system in this country is designed to criminalize Indigenous people, Boushie's family did not stand a chance. Sadly, this story is not surprising for the Canadian prairies, the century or more of systemic racism and dispossession of Indigenous folks. It makes this kind of killing unexpected. As long as Indigenous people are seen as a threat to people and property, there will be instances like this.

I wanted to start with this story because I think it exposes the deeply divided and racist country that Canada is. That is not to say that there are not beautiful parts of this country, hopeful [00:04:00] parts of this country, but this country and its citizens must confront its colonial and genocidal history. And how the impacts of this are still playing out today.

The fact of the matter is that land was stolen from nations through unfair and unaltered treaty agreements. What followed is the creation of private property and the real estate state that leaves little room for participation from Indigenous people.

The first guest we have today on the show is an alumni from the same urban planning program that I'm in. Hey Zane, why don't you begin by telling us a little bit about yourself.

Zane: Thanks for, for having me, Claire. My name is Zane Davey. I'm a recent graduate from McGill's urban planning program. And there for my research project I focused on new urban reserves and how they can be spaces of Indigeneity as well as kind of reclaiming municipal space to be Indigenous space. I did a history degree where I focused on civil rights in both the Canadian American 20th [00:05:00] century. So I think that kind of steered my, my focus towards maybe like something where I wanted to help the community or empathize with my fellow man a bit. So, that and a couple odd jobs here and there kind of brought me into the planning sphere after some time of reflecting.

Claire: How did you become interested in this research area? Like what motivated you to pursue this as your SRP?

Zane: I am Indigenous and I guess from my own time just exploring my own identity, coming to terms with it. It was always something that wasn't very outspoken within my family. So I'd like to definitely acknowledge the planning program, my peers, my colleagues really helped me kind of just explore, I guess, that side of me, so that allowed me to just kind of build a confidence and a curiosity to kind of pursue that side of myself and my [00:06:00] own personal research. And so that was kind of fun too.

Claire: So, I guess before we really dive into your research, I'm wondering if we can just take a step back and discuss treaties and the Indian act and how detrimental that was for Indigenous people.

Zane: I encourage everyone to, to read a bit more further and in-depthly on the number of treaties, as well as the Indian act as a whole. I feel like, you know, it's a huge document, but there's a lot of excellent criticisms about it. And, just acknowledging and learning a bit of the history can open up a vast new perspective for those who are, who aren't so familiar with it. So I encourage everybody to do that. Based on my research and in general, understanding is treaties ultimately weren't respected. And I know at the time of signature, much more was promised and conveyed to the chiefs of these nations, the elders that [00:07:00] they were going to get some level of a return. And we're looking at it more as a harmonious agreement, a treaty is an agreement between two sovereign nations. It's how it's defined. So at that time, both Canada and these nations were coming together and hoping to receive, you know, 50, 50 of an agreement and a partnership that would move forward. But I think it's clear as day that it was, it was not such a thing.

Nations were exploited, displaced to regions of which were beneficial to the Canadian government's agenda to ensure that they acquired the most resource rich areas, affirmed that they could secure territory from neighboring the United States. So at the end, it was just very Eurocentric, settler minded that [00:08:00] completely exploited and, and maliciously punished, first nations to areas of which were not at all the original agreement.

Claire: Zane discusses important points here that I want to make sure we're all clear on beginning with the number of treaties, which was a catalyst for the dispossession and forced assimilation of Indigenous people across the country.

Prior to the settlement of the west, there was a real fear that the US would expand into what it was known as Rupert's land, which made up the vast territory covering the Hudson's bay watershed, including much of Manitoba, Saskatchewan and Alberta. These Prairie lands were seen as vital to the economic growth and success of the dominion of Canada, as they could be used to attract immigrants. Ultimately, the dominion of Canada was successful in acquiring these lands and between 1871 and 1921, the numbered treaties were created. The Numbered Treaties promised reserve lands, annuities, and the right to hunt and fish on crown land, as well as forced strict requirements in the hopes to [00:09:00] assimilate Indigenous folks into the dominant settler society.

These requirements included Western schooling, forced reserve living and forced agricultural practices. To the Canadian government, the act of signing the treaties essentially relinquished Indigenous sovereignty over their people and solidified the federal government's dominance over Indigenous people.

The government coerced chiefs into signing the treaties. The declining Buffalo populations, dispossession and poverty that Indigenous communities faced, left them with little choice but to accept these agreements. The narrative that followed the Numbered Treaties is that the land traditionally used by Indigenous communities required cultivation, civilization, and ultimately to be tamed. This is the beginning of the country, practicing cultural eraser on the lands.

Trails and land have stories tied to them. And collectively Canada has told the stories that exclude Indigenous voices and perspectives. Mythmaking is an important tool in colonization and this was especially evident in the prairies where Indigenous people were kicked off the land and forced onto reserve lands.[00:10:00] The stolen land was then advertised to settlers and immigrants as the new Eldorado or land for everyone. Prospective settlers were promised 160 acre homesteads for agricultural uses. The federal government was actively committing genocide against Indigenous people while ensuring protection of land and promise of livelihood for prospective settlers. The stories of Indigenous livelihood on these lands prior to colonization and the ongoing violence and dispossession committed against Indigenous people are replaced by myths of land that needs settling and cultivating. This mythmaking and exclusion of Indigenous stories throughout history is something that Matthew Anderson and I spoke about at great length.

Matthew Anderson is an affiliate professor of Theological studies at Concordia University here in Montreal. Matthew has a particular interest in pilgrimage, mobility, and Indigenous studies from a settler perspective. He has a podcast of his own called *Pilgrimage Stories From Up and Down the Staircase*. I definitely recommend you take a listen if you enjoy these kinds of conversations about [00:11:00] land walking and Indigenous issues.

Hi Matthew, thanks for joining us today. Can you please tell us a little bit about yourself?

Matthew: So I'm treaty four, which is something I've learned how to say I'm treaty four, that's where I was born and where I grew up is on the territory covered by treaty 4, one of the numbered treaties that Canada undertook to sign with Indigenous peoples across the, the country, what was to become the country. That's near Cypress Hills on the Northern Great Plains in present day Saskatchewan. My professional background, so my undergraduate is in

political science oddly enough, because my master's is a master of divinity, which means that I'm an ordained Lutheran minister among other things. But I haven't worked full-time as a minister for quite a number of years because right around 2002, I guess I started after I got my doctorate from McGill in religious studies I [00:12:00] started teaching at Concordia part-time as an adjunct and continued for 20 some years teaching quite a bit and I do some writing and well, so that's about it.

Claire: I understand you have a particular interest in pilgrimage land and walking. So I guess I'm just curious where these interests really began for you.

Matthew: I've always liked walking. For instance, taking the so-called long trail in Vermont, which is a wonderful trail that crosses the whole state. I've walked big chunks of that before anything else and I think, but I think probably it goes back to being on the Northern Great Plains with my father and we would hunt in the fall, hunt deer, because we actually were not really super well off for a part of our lives. And the deer actually helped get us through the winter. And my father was very insistent that you not take the truck to hunt. He said that's not fair to the animal. It's not fair to the hunter. It's just not right. He said, we need to walk. [00:13:00] And when you walk, you learn, you learn better where the deer are, you learn better where you are. Um, and you learn, you just, uh, experience land in a different way. And I've never forgotten that. So we would go and, uh, my father would shoot a deer, or sometimes I did very rarely. I was fairly young still. And, um, and I learned how to walk across the land and learn something about the land, even though I was raised in a small town, um, so that was part of it. Um, but apart from that, I've walked these long trails in Norway and Scotland and England and Finland and, across, treaty four territory treaty six territory.

So I've done a lot of walking since then. And, um, and the interest in mobility in some ways comes from Indigenous writers. So people like Chelsea Vowel, who's not only a writer by the way, but a great podcast or just a fantastic podcast or Margaret Kovac, who is at, uh, university of Saskatchewan, who's a Neo or Cree, Leanne Betasamosake Simpson who is quite [00:14:00] well-known as well.

Um, and others, um, and some Indigenous folks that I've worked with, like Richard, who's Métis or, Skydancer Louise, who I've worked with, and Raymond Aldrin, who one time invited me to teach a class actually to the group of Indigenous students on my mostly Indigenous students on, um, on journey. And so I was very fortunate to do that. So I, all of these influences and then some other readings from other people like James Daschuk, on clearing the Plains, they all sort of came into the mix and, and helped me to solidify this connection

between walking, which I've always enjoyed and pilgrimage a certain kind of pilgrimage, I should say.

Claire: Do you find getting out in nature and walking on land changes your relationship with it?

Matthew: Yeah, completely. And I've always, uh, have, uh, appreciated the Indigenous writers who point to relationality. And when you take those kinds of walks through nature, you experience the really what is, how are we [00:15:00] in relation to nature? And it's not, how does nature belong to us? Usually when you're walking, you realize how we belong to nature? And that's a relationality shift that's quite important.

Claire: Yeah, that relationality shift is important. When thinking about how Indigenous people conceive of land and manage land versus how settlers conceive of and organize land. This disconnect between land relations, I think it furthers the divide between Indigenous ways of knowing and Western knowledge.

So, I guess Matthew, the state essentially stole land from Indigenous folks, forced communities onto reserve lands that were often resource deficient, and then the government turned around and gave this land to new immigrants.

Matthew: and, and it's one of the, what's one of the big ironies of history that the people who were in many cases cast out of places like Ireland and Scotland in England by the, enclosure movement movements, because there were several of them, went to [00:16:00] North America and wound up doing the exact same thing to the first nations that had caused so much grief and hardship and death and damage in their own families.

Claire: So you raised a very interesting point here, uh, and that is the irony between the enclosure movements in parts of Ireland and Scotland and the Indigenous dispossession in North America. As you explained, tenant farmers were kicked off their land in Ireland and Scotland and forced to leave their Homeland with limited options to stay. And then many of them were attracted to the Prairie's because of, you know, the advertising that the Canadian government did at that time. And, and just the vast homesteads that were being offered up for free by the Canadian government.

So, yeah, I guess I just want to talk more about land and the stories that are told in the ones that are raised through this kind of colonization and the settling of this land.

Matthew: Even just in terms of, you know people like me and my grandparents, my grandfather came, got a homestead and [00:17:00] what did we learn about it? Well, we didn't learn much about that. And so one of the things that being out on trails does is that it teaches new stories, or it can teach new stories and a trail can take on new meanings. So, the trail that I first wanted to walk on was called the Northwest mounted police patrol trail.

Now, when you hear that you think of red coats, heroic individualism, um, you know, the one person, the one red coat who in a rides into a group of, you know, um, these others is the way that settlers tended to think about it and in terms of the literature. And, um, and then when you start digging into the history of that trail, you realize one more time, and this is what we did in order to walk it, we had to dig into it. You realize that that mounted police patrol trail was overlaid over a Métis trail which was a trader's road, Métis traders road. And so who were the first people on [00:18:00] that land? Well, before that there were the Cree, the Saulteau, the Lakota, um, and then the Métis trading along those same routes.

And then, the Northwest Mounted Police came quite late. And so it's interesting that for it to be named after them, it kind of wipes out that earlier history. And that's what we found again and again, is that on these trails, when you walk on these trails, if you walk carefully and paying attention to the history of it, you learn something. It's a chance to re-describe history and retell stories, and, instead of the stories of frontier males like the Northwest Mounted police or frontier pioneers. I mean, where I grew up, it was called pioneer days where the sort of exhibition and there's nothing wrong with that in one sense in the sense that, I mean my grandparents were brave people. I mean, they endured, um, life at 40 below in Saskatchewan, you [00:19:00] know, in basically, um, in a sod hut, you know, which is almost like a hole in the ground, you know, it's unbelievable. Chop ice for water, um, raised some cattle. Lived very poorly and very sparsely.

But, that's not the only story. And if you, if that's the only story that you hear, then you're forgetting the fact that they were given land that, uh, I mean, it's like if somebody turned around and said, I'm going to give you a piece of land in downtown Dublin right now, I'd be going, wow, that's a bonus and that's kind of what happened is that people like my grandparents, they worked hard, no doubt, but they were given land that they could never have afforded on their own and, um, and that payoff comes down through the generations until it helps pay, for me to go to grad school and get my PhD eventually. The wealth has been translated again and again, through the settler society. And, that was part of what was envisioned by the treaty. But the other part was respect for [00:20:00] the first nations who agreed to share the land and the sharing and the riches with them and their resurgent now,

and saying, by the way, folks, we have sovereignty we're here, we're resurgent and we're going, what? No, that was part of the deal. That was always part of the deal. And a pilgrimage helps, uh, the kind of Canadian form of pilgrimage that I'm thinking of helps to reinforce those learnings about that historical situation and retail stories, including more of the details of what actually did happen.

Claire: Yeah, that really reminds me of, uh, the truth about stories by Thomas King. Um, and King's thesis is essentially that the truth about stories is, is that's all we are and it's a part of our identity. Um, yeah. What you were saying, just, just totally reminded me of that.

Matthew: When you said, when Thomas King says in the end, the truth about stories is that's all we are. Thomas King is, is a very smart person and I'm sure that he knows when he writes that, [00:21:00] that's a kind of a two-edged thing, because when he says the truth, what stories is, that's all we are, whose stories and what stories then become important. Because I agree that the stories are what define us, but then, there's some ownership or contested ownership of those stories. And that's what we were just talking about in terms of say the Northwest mounted police patrol trail. If, if all of a sudden it becomes all about the Northwest mounted police it's, that's interesting, but it's not the whole story.

So, um, uh, the stories that we tell can change and they change who we think we are, but our stories are more malleable than we think. And to be a Canadian does not necessarily have to mean to be in charge of your own castle. Like there is a whole lot of toxic masculinity, in the stories of the frontier and the whole term frontier is a problematic one because it means that there's somebody within the stockade and there is a wilderness out there that needs to be [00:22:00] tamed or feared or conquered or something. Um, and so the whole thing is kind of problematic and it's Gina, uh, to an again, two Indigenous writers, Gina Starblanket and, um, Dallas Hunt, I believe, um, who talk about restorying Canadian history and in some ways that's why I have done some of the things that I've done in terms of the walks is to try and in a various create some new stories, you know, cause walking through 150 kilometers across the prairies is kind of a weird thing and an adventure. And to do that in the combination of Indigenous and non-Indigenous people creates a new story about the west about these trails and brings those trails one more time into common mind. Um, and so when King says the truth, what stories is, that's all we are, we have to pay attention to stories and especially Canadians. We need to pay attention to the stories that have been suppressed and they have been [00:23:00] intentionally suppressed. And by the way, it's not just stories about the deep, dark, awful past, uh, in terms of Indigenous, uh, Canadian relations, the stories about the present that are beautiful, wonderful stories. So, um, the story is past and present and they're

not all bad stories. Um, but we, so we have to recover the good ones too, that help describe who we are and the relations that we can have with each other and with the land.

Claire: So we've talked about the Numbered Treaties and this eraser of Indigenous culture and history on the land through colonization. And I think it's also important to touch briefly on the Indian Act. In Zane's research, which I recommend you all to check out, his article is called Decolonizing Urban Space: The Future Potentials for New Urban Reserves and the Indigenization of Cities, he discusses the Indian act as a means to surveil and oppress first nations. And I wanted to break that down.

The Indian Act, first established in 1876 as a federal law that aims to govern matters related [00:24:00] to Indigenous status, bands and reserves. It was originally designed to break up Indigenous nations into bands, setting reserves apart, keeping track and surveilling Indigenous people until assimilation was complete. The Indian act is the legislation that officially recognizes Indigenous people as such and provides them with status.

This requires a compliance of the standards of "Indianness" that the Canadian government set out. This process was extremely paternalistic, invasive and enforced patriarchal standards onto Indigenous communities that are historically non patriarchal. Indigenous and non-Indigenous scholars have long argued that the Indian act served as a tool to surveil and oppress Indigenous people of Canada, imposing Western colonial ideals and governance structures onto nations.

The Indian act has gone through changes since its inception and remains controversial. The most prominent change to the Indian Act was in 1969 with Prime Minister Trudeau aiming to [00:25:00] dismantle the Indian Act with the white papers. The idea behind the white papers was to get rid of the existence of status and 'Indianness' and to fully assimilate Indigenous people into white settler society. Essentially the white papers would have ended the legal relationship between Indigenous people and Canada. This was highly opposed by Indigenous leaders across the country.

Although the Indian Act is far from perfect. Its dissolution would not necessarily be a movement in the right direction for Indigenous people across the country. A publication in 1963 by anthropologist Harry Hawthorne concluded that Indigenous populations across Canada are the most disadvantaged and marginalized attributing this to the dispossession, forced displacement and relocation onto reserve lands, years of policies that neglected Indigenous sovereignty, and the residential school system, An amendment to the Indian act would be a positive step, but not complete abolishment.

Ultimately the White Papers were rejected. Since then there have been spinoffs [00:26:00] from the White Papers, including Citizen Plus also known as the Red Paper created by the Indian association of Alberta. And more recently the Red Paper by the Yellowhead Institute that focuses on dispossession and land back.

So I think we covered a very brief history of the kinds of oppression and exclusion that Indigenous people face in the country. This is a lot and a bit of an information overload, so if you need to take a break and come back a little later on, that's okay.

Through all of my conversations with guests, I wanted to understand how we could fix this, how we could solve the stark inequality between settler descendants and Indigenous people. But I understand that there's no one blanket solution and I'm not going to discover that in this episode or in, in this entire series. But I wanted to learn about different strategies and tools that we can use to at least bring us closer to harmonious living. Maybe that's wishful thinking, but that ultimately is I think the direction we all need to go. And so I wanted to figure out how we could [00:27:00] do it.

So let's start with Zane's work on new urban reserves.

Zane, can you tell us a little bit about your research and why you thought it was an important topic to study for your, uh, supervised research project?

Zane: Yeah. So going into my research I knew of course that one of the largest growing populations within Canadian municipalities is our Indigenous populations. There originally was the myth that this was occurring because of births. But it now has been pretty confidently stated that it's because of individuals, self claiming and people coming out of hiding and repressing their indigeneity from society out of shame or, or any sort of context that they may personally have. But, we see a resurgence of our Indigenous community.

And within our Anglo-Saxon Eurocentric municipalities there's definitely a lack of [00:28:00] space or a lack of representation, I find for our Indigenous communities, this being of course, an act throughout history, of repressing and sort of trying to assimilate Indigenous culture into what we know as Anglo-Saxon settler domination, I would say. So, knowing that, and then hearing about new urban reserves, I was very curious in how they could benefit Indigenous folk and specifically first nations to creating spaces within cities that supported and better represented those first nations, as opposed to, as we mentioned, in our discussion about treaty, how many of these nations are in remote resource lacking areas that are often, of course, under funded or supported by the Canadian government, allowing these nations to

develop and come into the cities under a state of self-determination and their own [00:29:00] sovereignty. I believe it can tremendously uplift nations' communities.

Claire: So what did your research show about New Urban Reserves and their potential?

Zane: So maybe I'll kind of just digress, just some, a bit just to paint kind of the picture of what a new urban reserve is. And that is an acquisition of land typically within, I mean, we're talking about urban urban space. So within a municipality that a nation can acquire from two forms of policy, the additions to reserve policy ATR or treaty land entitlement, TLE. Nations can undergo a process of which if they are still owed territory land from the Canadian government, not providing that original land allocation back when the treaties were signed, nations can acquire land that way.

Now drawbacks to it, unfortunately are, are large and kind of everywhere, kind of a muck I would say. [00:30:00] But, some that I've, that I've highlighted in my paper and some that I just jotted down here to really emphasize and based on speaking with my case studies, it would seem that the two big drawbacks are related to these forms of policy to the TLE or to the additions to reserves. The one that kind of really jumped out to both myself and my supervisor were the fact that these nations were meant to, I guess, just bend to the will of municipalities as municipalities have a sort of de facto veto power in that they can refuse providing services, services, such as water infrastructure, fire department, police services, etc, to these new urban reserves, which are located within these greater municipalities. They can stop providing services if the nation does not take up bylaws, city, bylaws, or zoning [00:31:00] so really it basically, you need to do what we want you to do or else you're not getting services. And during this entire time, while they're not receiving services, They still need to be paying property taxes until an agreement has been settled, where they can be officially recognized as treaty territory of which they may no longer have to pay property taxes.

So really they're held hostage to some degree and speaking with some of the municipalities some of these municipalities don't believe that there is this sort of form of exploitation occurring. They don't seem to quite think that this required service agreement that needs to occur isn't an issue. So that for me, was quite startling and certainly. It goes right back to, I mean, the ATR, our policy is federal legislation, so it goes right back to a concern that right to the federal level that some sort of reform needs to occur for these new urban reserves to properly excel and succeed.

Second, would it be.[00:32:00] That these new urban reserves are only served up as an opportunity for nations to buy is on the fringes of the city. We're talking about industrial zones or economical zones. So never is there a nice residential type space where, these Indigenous communities first nations might consider building housing for their nation within the, you know, within the municipality. Typically they are teed up to be to follow an economical development type zone, uh, which I think limits the possibility of new urban reserves and also is designed to just fit to the Euro capitalist practice that is on the municipalities agenda.

So that's a real concerning moment too, because of course it's a huge problem for our, uh, first nation communities is a lack of housing. So again, if they would be able to acquire residentially, [00:33:00] safe land, they could provide their communities with such housing. Because of course that's not that sort of funding isn't coming from our federal grants.

Claire: So, I guess another thing is just the lack of resources that many first nations have, or don't have, I guess I'm sure this makes the new urban reserve process a little more difficult, with nations having to kind of muddy their way through municipal policies and bureaucracy. Is that something that's a problem with these, uh, TLE and ATR policies? I take it, there are federal policies, which I see, I assume just like complicates things even further.

Zane: I think it certainly doesn't help with the fact that again, these nations are coming into the space where, okay. I want to establish an urban reserve. Who do I talk to? You know, whose jurisdiction does this fall under? And then you have the city who's looking at the, uh, the federal government and the federal government isn't even looking that way because their attention is completely not on it. So I think it creates a very inconvenient, a very [00:34:00] slow and drawn out process that is completely disrespectful to these nations who are looking to uplift their own communities. You talk to a lot of municipalities or you go on their websites and, and that kind of spurred a lot of passions with this subject too, is, you know, you see the toolkits, how to work with Indigenous folk or, the land acknowledgement or just sort of these very top level in my eyes, sometimes superficial practices. You need to see the real hard work that's being done for me to actually consider, okay, you are practicing what you're preaching kind of thing.

Canada has historically acted upon colonial narratives of Indigenous people, belonging to the frontier, or they are the Other, Savageness, something that's been explored, quite dominantly. And, kind of these ideas first came to me during my history undergrad where we sort of explored this, but the fact is that Indigenous folk, they don't belong in this city. They belong

outside of our, you know, trading post walls. If we're getting back to like, kind of [00:35:00] like, uh, uh, fur trading sort of narrative. Because I believe that's really the same narrative that continues to plague municipalities to the 21st century, is that Indigenous folk belong outside. And until we address that issue, until land development can, we can find a balance of which both Indigenous, perspectives and outlooks towards land development and land ownership exist alongside our municipalities definition. I feel like it's just constantly going to be butting heads. And we know who the victor's going to be. It's not going to be the Indigenous folk who, whose side is, is benefited.

Claire: Yeah. And I think that leads us well into my next question. So in addition to the new urban reserve projects that have the potential to bring Indigenous perspectives and presence into urban contexts, your work also discusses something called the third space. Can you explain that further?

Zane: I think it, you know, there was a quote that I don't think will ever escape me [00:36:00] Um, and that I have in my paper is just the definition of what Indigenous community planning is. Community planning is not planning for Indigenous folk, it's planning with Indigenous folk. So I think that's something that just needs to be incorporated into the planning sphere, especially within the Canadian context. These are Indigenous lands that we have developed municipalities upon, which we love to acknowledge. But if it's, when both practices, both outlooks begin to merge. And I think that is what the third space is. Hirini Matunga researcher calls that third space or two other researchers, Porter and Berry, they refer to as the contact zone. I kind of picture, you know, some level of Venn diagram. And then in the middle, we have our third space, which is a space for Indigenous community planning and a kind of Anglo-Saxon Eurocentric type planning that we know of can meet harmoniously. And work towards a new sort of [00:37:00] definition of what municipal, Indigenous Canadian planning can look like. Would be intertwining, Indigenous folk, Indigenous professionals, whether that be architects, engineers, policymakers, within this fear of, we can start within a planning department, but then also slowly intrincating all of our departments to have this Indigenous minded representation. So, once we can develop that out from planning departments. I think you can just slowly expand it within the muni municipal public spheres context in general.

Claire: I guess I'm curious, like throughout your research, did you ever discover something big that really changed your perspective and kind of rattled you in any way.

Zane: You ask if my, you know, if I learned anything, new perspectives, and again, going into this research that I think is extremely important when we're talking about Indigenous land development is context. Um, the context of one nation does not [00:38:00] represent another nation by any means. So it is extremely important that as planners, as we move forward, and what could be a huge importance of this third space is to individually in the sense of like each nation, get to understand their context, hear their perspectives because there's not one blanket that we can just toss on. And I think that's kind of what they thought with the additions to reserve policy, the TLE that, oh yeah, we can make one sort of thing and that'll just do for an entire multitude of nations and their own contexts. And an example for me of this context, that really was striking when I was doing my interviews and my research was this idea of creating an Indigenous space. What does that look like? And for me, I was bringing my own biases and my own vision into these interviews and that I was what I had envisioned of what a space of [00:39:00] indigeneity would look like. I sort of had it in my mind and after speaking with the Muskeg Lake Cree Nation, the representative shared this quite a phrase that he said, you don't need to hang a feather on it to make an Indigenous, which spoke volumes to me.

You don't need to have an Indigenous urban design, let's say, you can for sure. I think that's beautiful, but it doesn't need to scream indigeneity to a stereotype type tokenistic representation that so often we see. He said for him and sort of what the Muskeg Lake Cree nation is moving towards is this is an Indigenous project, therefore it is Indigenous. They have a gas station, which is an urban reserve. A lot of times people think urban reserve, this must be like quite the development, quite the community, but it can be simply a development on a lot of any size.

So he said with this gas station that this here is Indigenous, because we [00:40:00] did it. We were the ones who decided what it would become and for me, that made perfect sense. Now I think the important thing that needs to be considered is that people know that I think that it's, it's, important for if we're going to indigenize space for the general public to recognize that that is Indigenous space or else, I believe that it is just fitting the agenda of Eurocentric municipalities, which is just to blend in blend in fit the, you know, the, the system. And for me, I guess I just don't think that the right direction is to, to remain quiet and not vocal about what this space, what these spaces are.

Claire: How do we move forward as planners, planning students or just people listening to this podcast, can we feel hope in the work being done?

Zane: Yeah. I guess like we have, like, how do we move forward? Let's end it on a good note. So we have those, we've kind of said like, well, how do we move forward to decolonize land [00:41:00] use planning? And we've kind of said, okay, well you can fight the good fight or you can work within the system. But I think optimistically that it's about. I wish I had that quote, but there they, one of the planners at the city of Saskatoon, who's done very good work in, uh, and they created the communication guide and I've looked at it and I had the breakdown of how many first nation and Indigenous folk they spoke to, to create this, left me with a level of optimism.

And what this planner said it's about having the right people in these spaces, you know, who are working as either allies or as Indigenous folk themselves, to change the system. You know, the third space as we discussed, it's neither fighting the good fight nor completely assimilating. It's finding this balance of cooperation that I believe is ultimately where we should go.

Claire: Okay. We're going to transition to another form of resistance I've learned about throughout this project, and that is [00:42:00] the Duty to Consult. Which essentially means the inclusion of Indigenous communities into the development process. I spoke with Jenna McGuire from the Historic Saugeen Métis community in Ontario to talk about this.

Hi Jenna. Thanks for being here today. Do you mind introducing yourself and the work you do with the Historic Saugeen Métis ?

Jenna: So my name is Jenna McGuire and I'm the executive director for the Historic Saugeen Métis. I'm also vice president on council and I work as the community's culture keeper. Uh, so that means I do everything from historic research to traditional skills teaching, uh, to language preservation work and everything in between.

Claire: And can you tell us a little bit more about your community and some of the history?

Jenna: Sure. So the Historic Saugeen Métis are an independent Métis community. Our communities are situated along the Lake Huron shoreline from Godridge, north up to Tobermory, and then down around into sort of Collingwood and then down through the land, uh, that way. So our community came to be in this [00:43:00] area in the early 1800s kind of around the 1820s I'll say. Basically up until that point, our community had really been in the Northwest, uh, in areas like Nipigon and Fort William and, uh, red river area. And there was a merger that took place in 1821 where the Hudson's Bay company took over the interests of what was then the Northwest company, um, due to a long series of disagreement between

them and sort of government influence to have them merge. And our community at the time was working for the Northwest company. And a lot of people lost their jobs at that time, but our community luckily still had work. They got taken on by the Hudson's bay company and sent into what the Hudson's bay company then called, uh, the lake Huron district.

So that was basically everything that encompasses Lake Huron within their company. And so our community members, uh, [00:44:00] you know, ancestors had come here during that time to work for the Hudson's Bay company. And so the Hudson's Bay company had several hosts set up around the lake they had, um, one, in the La Cloche which is just north of Manitoulin Island. Uh, they had. Uh, several outposts from that main one, um, all over sort of like Toronto. And one of those outposts was here at Saugeen, which is now the town of Southampton, Ontario. Uh, but there was a Hudson's Bay company outpost here at Saugeen, uh, for a short time from around, I think it was around 1827 to 1833 ish.

Um, and, but there were also lots of independent trade and other free trade companies influencing the area. And a lot of our ancestors actually very shortly after coming into the lake, kind of became independent traders instead of working for the Hudson's Bay company, they traded independently on their own. So there's this, this basically this really early history of Métis people coming to lake Huron to [00:45:00] work for the companies after the merger and then sort of staying.

Claire: So, what is the duty to consult? Can you explain that process?

Jenna: Yeah, so we have, uh, a lands resources and consultation department within our office. And that department basically deals with any, any kinds of things occurring within our region. Like that might be industry or, you know, new developments of housing or anything like that. And they just sort of look through the file and see if there's anything in terms of environments or archeology and culture that could be impacted by those developments and work with those proponents to mitigate those things or work around some of the key locations, uh, and just sort of have that kind of relationship ongoing with any of those things, taking place to protect that cultural and natural heritage features that are important to the.

Claire: Do you think this makes sense? Like, is it a good way to include Indigenous folks in the development and [00:46:00] kind of planning process?

Jenna: Yeah, it definitely does make a difference. There are limitations to the nature of sort of what can be done and what mitigations are necessary on the part of proponents. So, uh, it's definitely beneficial, but there are sort of aspects to it that have a limit. One example

would be when a new, uh, subdivision goes in, for example, that has to have an archeological assessment and a few other things, but there's a lot of old subdivisions that don't require that. So anytime someone builds a new house on a, you know, unbroken lot, they just, they are able to do that. And so there's things like that where it's like, there could be a risk there where there's archeological potential that's not being preserved because that doesn't get tripped up, I guess, in the process, just by the nature of how the legislature is and the age of certain things like that, obviously that's subdivision being, you know, sometimes over a hundred years old, never had that take place.

[00:47:00] And so there's, there's parts of the way, um, some of the policies work that there's some gaps, but overall, yeah, it's great. It's really great to be able to work kind of one-on-one with people doing these kinds of things in the area or industries, for example, and to be able to develop a positive relationship with them, um, to instill you know better practices going forward or for their work to include Indigenous perspectives in it. And an Indigenous understanding. A lot of the proponents also actually worked very hard at learning about, um, more than just what's required for a project. They'll sit down with us and learn about the community's history, uh, they'll learn about cultural, you know, features and aspects sometimes. Even people are willing to go out with us on the land, and explore and learn from that perspective. So it's a, it's got a great potential to deepen those relationships and to broaden people's perspectives and understanding.

Claire: That's really great to hear [00:48:00]. And, it sounds like the duty to consult is used to sort of build relationships that have been severed historically, or that have never even been created in the past. Do you know of other Indigenous communities that are also consulted on the development process?

Jenna: Well, it's definitely a required piece. I'm not really sure how many people are living up to that particular standard, uh, in our area, the Saugeen Ojibway first nations on the Métis nation of Ontario and then ourselves the Saugeen Métis are all the Indigenous communities that are consulted within those projects. And I know locally that's done really, really well, but I definitely know that there are certain municipalities or certain places within Ontario in Canada, that a lot of communities I've spoken to definitely don't get the same depth of relationship. Um, sometimes you see, to be honest, actually, proponents that are a private company um, sometimes they do a little bit better job because they have their own kind of onus [00:49:00] to, um, to create that great path forward whereas when it comes to some government processes, those are really tied up in legislature and policy that hasn't developed yet. It's not that there's not a willingness, it's just that there's not the structure maybe in place

or the relationship is not in place. So sometimes there are some gaps there. And I think it's definitely different for every community across the province and the country. Um, somewhat have good stories and bad stories all throughout. So it's hard to say.

Claire: And what are your relationships like with the municipalities or counties that sit on Saugeen Métis territory?

Jenna: So it's, it's different kind of, depending on all kinds of different folks, relationships are at different stages and phases, depending on who it is and how many projects have come up or how much time there's been resources on both sides to work with those groups. But generally speaking, the way it would go about is, um, you know, we have regular consultation tasks, like say, for example, with the county, there'd [00:50:00] be changes to zoning and different things like that. But we also make an effort on our part to invite them to have a bit of deeper learning sessions with us. So we've definitely had people in the office and we've given historical and cultural presentations for them. We have a great interpretive center in our office as well so people can, you know, view some artifacts that are relevant to the community and maps and different things that help deepen their understanding.

Um, so that's something that we always offer to people is an opportunity to understand things from our perspective a little bit better. And generally anytime we meet with someone for the first time, we would include that offer on the table that, you know, a little bit of a history lesson, I guess, uh, we find it's pretty important, particularly being a Métis community and things are very, people have a very high misunderstanding when it comes to Métis history, particularly independent Métis history, uh, really deep misunderstandings. So it takes a lot of, um, effort on our part to make sure that [00:51:00] that history and culture, and sort of where we're coming from is really clear. And so we certainly work at that whenever we begin those relationships. And then with some folks it's gone even further in that we've come in and spoken to larger components of their staff. Uh, so there's of course, you know, planning teams and working group teams, but we've also gone into those places and had larger opportunities to work with their staff on those learning opportunities.

Claire: So I guess I wonder how you see more Indigenous representation in the planning and development process. How can we kind of bring these perspectives into the work of planning and rural and urban communities more often?

Jenna: Yeah, that would be great. Um, one sort of roadblock, of course, for any Indigenous community is resources. So, you know, in order to get sort of community members and staff trained up to do these different things or have support to go to school for that kind of stuff.

Um, there isn't necessarily a lot of resources to support, um, duty to consult beyond the real basics. I [00:52:00] would say, um, even some of the, uh, you know, a particular meeting that has to happen often, there's not really any funding at all. And so there are sort of the ability and the resources of any Indigenous community to contribute as kind of the bare minimum of what they have.

I don't really know an Indigenous community's environment office that's not like overworked and stretched thin. They're just not ever big enough to, to deal with all the different things going on. And in order to have like a deeper relationship where they'd be able to really do a deeper inventory of features might be in an area or to have a deeper relationship with people. They're just not the resources in terms of staff and time and, and ultimately funding. So that's like probably the biggest roadblock is supporting those, um, those departments to kind of be bigger and have more people in time and, and, and that kind of thing.

And it does take a lot of training, even [00:53:00] just from my community's perspective, you know, I've been doing this for a number of years now. And like, even just this morning, I was interviewing an elder for, uh, understanding some fishery history better and she told me things like I've known her for years, things I'd never heard. And I just, it deep, every time I do that, it deepens my understanding and almost changes my perspective on how certain things are, how we would do certain things.

Claire: So I guess, what do you think can be done to improve the relationships that you know, Indigenous communities have with municipalities, especially when we're talking about land and development?

Jenna: Well, I think the number one thing anyone could do, which doesn't take a lot of work at all is being a bit more open-minded because I find the way you would see or understand or speak about the landscape or species or an ecosystem is very different in an Indigenous world than what it is in sort of a Western science or Western engineering world. And there's a bit of an elitism in Western science that sort of like [00:54:00] this assumption that their knowledge system and their way of knowing and their way of doing something is superior and the best and all this kind of thing. And it's sort of frustrating because you see people not having an open mind right away, like they immediately aren't really getting what you're saying. Not because they couldn't, but because they're just not receptive at that time. And that's not really something that's taught in Western science. It's very empirical and process-based, and it's really methodology focused. Um, so even just something as simple as like, you know, when you're, when you're going to meet with, or speak to an Indigenous community, just

maybe close your mouth and open your mind because people also really like to talk about what they know or who they, who they know or what they've seen or what they've heard. And it's better to just actually listen instead and really think about what you're hearing.

And sometimes hard to, I guess, conceptualize the two [00:55:00] perspectives because they're just seen in very different timescales as well. Like the other day, my mom and I, for example, we're talking about how the land changes, you know, like the size of a hill or the rocks that are exposed change as the years go by. And you can see that but I mean, that wouldn't be something, someone from the science world would understand very well because they're not looking at it in that same time span. They might understand it if I said, oh, there's freeze, thaw cycles and they'd go, okay yeah, that makes sense. But just the way you might even word something is a little bit different and you have to say. Um, translate the, the language that was being spoken about landscapes as well. So I think that open-mindedness is the number one most important thing.

And spending time with the community in any way you can, because what I'm thinking I can speak to for our community, you can't learn about our history anywhere, but with us, there's no good resource to go out on a website and learn about our community. [00:56:00] Uh, you have to spend time with us, and that's true of any community in all of North America. Sure they might've had books written about them, or there might've been books they've written themselves, or there might be articles, but you just can't get the same experience until you spend time with the community. So I see a lot of people trying to do their research and their homework, which is really great, but it's never going to replace time spent with people.

Claire: Time spent with. Let's all. Remember that? Thank you so much. Jenna. One final form of resistance that I wanted to talk about today is the treaty land sharing network that Matthew told me about in our earlier conversations.

Matthew: The treaty land sharing network is a group of farmers, ranchers, and other landholders who have voluntarily come together to form a network where they post signs on their land. Basically saying we welcome Indigenous people to access the land that we're farming or ranching to practice their way of life. We're committed to implementing the treaty relationship, to engage in learning together, to [00:57:00] practice being treaty people. And it's Chelsea Vowel, I think who's an Indigenous author and commentator, as I said, who talked about the fact that much of the friction that happens, um, not all of it, but much of the friction that happens, happens in rural areas. And, um, you know, a lot of the thinking about these things supposedly happens in urban Canada and that land acknowledgements and so on.

But the actual contact between people very often happens in rural Canada because the first nations themselves exist in, you know, neighboring, uh, rural areas quite often.

And it's very interesting that you have something like this treaty land sharing network, because what that is saying is, we might not want settler descendent hunters coming in here pell mell, you know, just showing up and driving around. But if you're Indigenous and you want to come and you want to forage or you want to hunt, um, you are welcome because that's part of our treaty obligation and good. I mean, that's an initiative that started in the rural area [00:58:00] and it happens to be, I think, primarily in Saskatchewan right now, but just think how, how wonderful that would be if that hap, if that took off something like that took off in new Brunswick or in, in Quebec, uh, or in Northern Ontario and so on. I just think it's fantastic and it's led by these, uh, by these people in the rural areas.

Claire: This network is a great example of settler Indigenous partnerships that can and should exist. I encourage you all to learn more about the treaty land sharing network on their website, which I'll include in the show notes.

Well, that concludes our episode. That was long and some of that content was heavy, so thanks for sticking around. New urban reserves, the duty to consult and the treaty land sharing network all offer a different way to rebuild relationships with Indigenous folks and to rethink property regimes and land use. These tools are not the only ones at our disposal and only present a starting point. My hope is that more municipalities work [00:59:00] closer with Indigenous communities to bring their perspectives into the urban and rural realm.

In the next episode, I will be introducing something called the right to roam, which offers a different approach to land management and public private partnerships and land ownership. So stick around.

All the resources that I use to create this episode will be included in the show notes. So please take a look. Thank you again to my guests, Dr. Matthew Anderson, Zane Davey, and Jenna McGuire.

3.2 Episode 2: The Right to Roam

The second episode of the podcast explores a form of resistance to dominant property regimes, which is the Right to Roam. The Right to Roam is an umbrella term that refers to various policies that grant public access to public and private lands, most commonly in the countryside.

England, Wales, Scotland, Sweden, and Finland all use different forms of Right to Roam policies

that grant various levels of access. These policies offer examples of access to land that does not necessarily hinge on a sole owner. As long as it is done responsibly and safely, people can walk, camp, fish, and exist in space that they do not own. It reveals a new way of land management that, I believe, can be adopted in a North American context where property rights are so prevalent.

In this episode, I speak with author and journalist Ken Ilgunas. He has written several books, most notably *Trespassing Across America*, *Walden on wheels*, and *This Land is our Land: How we lost the right to roam and how to take it back*. Ken and I discuss what the Right to Roam is broadly, how it contributes to a change in one's relationship with land, the different levels of access that these policies permit, and what this could look like in a North American context.

The second half of the episode introduces the Bruce Trail, a 900km trail system that runs along the Niagara Escarpment in Southern Ontario. The trail is an example of public-private land management, as parts of it cut through private property with permission from the land owners. To explore this trail system further and understand how formal and informal land relationships between members of the public and private landowners function, I speak with Joel Swagerman, a land acquisition planner with the Bruce Trail Conservancy (BTC), Spencer Dunn, a hiker in the process of completing the Bruce Trail, and David Ruppel, a landowner that has the Bruce Trail on his property. The guests share how the BTC executes its land acquisition program, why relationship building is fundamental to this work, and what this looks like from a hiking and landowner perspective.

This episode uses perspectives and knowledge from practitioners, writers, hikers, and landowners to understand land relationships and access. As Blomley (2019) discusses in *Precarious Property*, land and ownership is something that confronts all of us in our daily lives, it is inescapable. Because of this, it is necessary to speak with people that can draw on professional and personal experiences with land and ownership.

Episode 2: The Right to Roam

Claire: [00:00:00] Hello everyone. And welcome back to on common ground, a podcast where we look at our system of property ownership and explore different forms of land access that challenge dominant property regimes. I'm your host Claire.

In today's episode, we will be exploring the right to roam, which essentially is just the granting of public access to both public and private lands for recreation. The right to roam exists in different forms in many European countries, England, Scotland, and Finland, all granting different levels of access to public and private lands.

I wanted to explore this because it is an example of land access that challenges the dominant property laws we have in the West. The way in which North America conceives of land is individualistic and it's centered around a sole owner, providing public access to private lands seems unthinkable here. Access to land is tied to ownership, and there are a few examples of that being contested.

In today's episode, we'll break down the right to roam, and we'll also explore a trail system in Southern Ontario that I think could pave the way for the right to roam in Canada. We have four guests on the episode today: author and journalist Ken Ilgunas, land use planner Joel Swagerman, my friend Spencer Dunn, and my other friend David Ruppel. [00:01:00] The guests will share their different perspectives on the right to roam and what public and private land management could look like.

I'm really excited for today's episode because this topic is what made me pursue this podcast in the first place. The summer I was walking in my town of Collingwood, Ontario, there's this five kilometer hill called the grind that people walk up and down for exercise. It's a really grueling walk on a steep incline the whole way, and it follows this dirt road that is two lanes wide and is full of really sharp turns, so cars and trucks are just whizzing by you as you walk along. Large forested areas line the road on each side. You can't really walk more than 50 meters without seeing a private property or no trespassing signs stapled to a tree.

The properties are mostly wooded, with homes kind of set back deep into the brush. Like you can't really see them from the road. The wooded areas would make a fine walking trail at the same slope and would provide refuge from the dangerous road. One day as I was walking up the grind, I listened to the podcast, [00:02:00] 99% invisible, where they were talking about this concept of the right to roam. And that's really where this project began for me. It all of a sudden dawned on me that we have just accepted that land is something that should be owned by a single individual family or, or corporation. And that ownership dictates access and use. To me, land is inherently unknowable.

After speaking with my guests, I became inspired by the possibility of moving away from our system of land ownership and private property and towards something that encourages alternative forms of access and use on land. This new thinking can open up the possibility

for an alternative understanding of land value that is not necessarily monetarily defined. It can also improve our connection with the land and thus help our struggle against climate change. All of these things and more are possible if we are daring enough to carve out a new path.

The first guest we have is an author and journalist, Ken Ilgunas. I spoke with him via zoom, as he's currently living in Scotland. Ken has written several books, most notably *trespassing across America*, *Walden [00:03:00] on wheels*, and *this land is our land: how we lost the right to roam and how to take it back*. I highly recommend all of his works. And if you're interested in learning more about Ken and his work, check out kenilgunas.com.

Hi, Ken, thanks for being here today. Can you, uh, just start off by introducing yourself and telling us a little bit about who you are.

Ken: Yeah. So, um, my name is Ken Ilgunas. I'm an author, a sometimes journalist and an occasional park ranger in Alaska. Um, I was born in Hamilton, Ontario, grew up outside of Buffalo, New York, and now I live in Scotland.

Claire: So you've done a lot of work, uh, with this right to roam, or I guess, different variations of the right to roam, And I guess, like, how did you become interested in this subject matter?

Ken: So I guess there's a kind of three origins to my interest in this topic. And one would be being a backcountry ranger in the gates of the Arctic national park up in Northern Alaska, um, where it was my job, [00:04:00] coolest job in the world to go on an eight day hike and get paid for it. In the gates of the Arctic there's no roads going through there. There's no trail. So I have a compass and map and a GPS and one fellow hiking partner. And we would be walking over mountain passes and following river valleys and just always making sure we were going in the right way. So it kind of instilled this, this love of overwhelming wilderness.

Then a few years later, I walked the length of the proposed Keystone XL pipeline from, um, Hardisty Alberta down to the Gulf coast of Texas. And I literally trespassed across the continent. I walked across people's lands for, for much of that. And it was on that hike when I really began to kind of question our system of land ownership.

When I visited Scotland where I am now, and I saw this system here, that was the true kind of revolution because I saw it in practice. I saw how it works. I saw the freedoms people [00:05:00] got to experience. I see how it's been worked out in law and I'm just like, and then something like the right to roam, didn't seem just kind of like this farfetch, idealistic notion, but something concrete and something that can be imported to a different country.

Claire: I asked Ken what it felt like to trespass across large swaths of land in the Great Plains. I wanted to know if this experience changed his relationship with land and how he felt like he fit in. He described that in the beginning of his journey, he kind of felt like a juvenile delinquent. He wasn't doing anything wrong on these lands, but the mere fact that he was camping on open fields and hidden in canyons was illegal. Technically what he was doing was wrong. It was trespassing, but why was it so wrong? That's when Ken's mentality switched. And he really started questioning our system of private property in North America.

Ken: And then it just kind of felt like this very calming, peaceful journey across the Great Plains. And I remember I just began to [00:06:00] feel innocent. I felt like a little girl picking the blueberries that was, you know, like taking pictures of sunsets. Setting up my tent and camping under the stars and taking interest in the clouds and any animals that came my way. It just kind of had this weird kind of innocent effect on me. And, but the funny thing is, you know, I was experiencing these feelings, these sensations, but whenever I did interact with people saying like the state of Montana, where I'd go into one of these, you know, restaurant slash pubs, and the first thing people would say is you're going to get shot for doing what you're doing. It's just like, wow, I'm going to get shot for placing my feet over blades of grass and taking pictures and, you know, falling in love with my country. That was just a weird disconnect there. And it was kind of around that point when I began to really question [00:07:00] how North Americans conceive of land ownership, it felt kind of off, it felt weird. It felt kind of messed up and I was never able to kind of shake off that feeling of messed up-ness

Claire: So how does your relationship change with land when you no longer see yourself as an intruder?

Ken: It completely changes your relationship with it. And I think one begins to take kind of a vested interest in an environmental system, if you have experienced it. I think that's the key thing. Like if we can get up in nature more, if we can see these places and experience them and perhaps get an affection for them, we're going to be better environmental stewards. We're going to want to, we're going to want to protect and take care of these places.

Claire: So I understand there's different variations of you know, right to roam policies, they're called something different in, in most countries that they're used in and they all permit a different level of access. [00:08:00] Can you explain this a bit further?

Ken: Yeah. So I think there's kind of three categories of situations: one's kind of generous, one's partial, and one's very like low access. So, um, just to start with a generous access

system, let's start with Scotland. So I think there's just kind of something in kind of the historical and cultural DNA of the Scottish people that makes them think of land, not necessarily as mine and yours, but as ours, like there's an old Gaelic saying that says, every Scot deserves a deer from the hill, a fish from the river and a tree from the wood in Scotland. And this is kind of the same for Finland, Norway, Sweden, and some of the Baltic countries. You have the right to go horseback riding, mountain bike, riding, [00:09:00] hiking, camping, um, just sleeping under the stars, uh, uh, taking an easel and painting a mountain, whatever. So long as you're doing so responsibly, what does that mean? You, you can't be littering. You can't be invading someone's privacy. If you have a dog and there's cattle and sheep around, um, it has to be leash. It doesn't include hunting or fishing or motorized access. So there's bunch of rules and regulations.

Claire: So Ken explains that this kind of generous access to private lands communicates a shared knowledge of lands and resources. Scotland became part of the United Kingdom in 1707 and in 1999, devolution began where Scotland remained a part of the UK, but gained its own Parliament. Soon after in 2003, parliament passed the Land Reform Scotland act, which really initiated the right to responsible access. [00:10:00] It clarified property rights and worked in favor of the Walker or the Rambler. In this act, all of the rights and responsible access rules were described and laid out. And you can still find them today online.

Okay. So that's an example of a generous system. There are also partial and low access systems, England and Wales, are examples of a partial system. In 2000 parliament introduced a countryside and rights of way act. This act came after a long history of protest by the English people. On April 25th, 1932, 500 protesters hiked towards Kinder Scout, which is the tallest hill in England's Peak District. The protest was in response to an increase in trespassing laws and it resulted in a slow change of laws to open up England's private countryside to the public. The route the protestors took is known as the Kinder Trespass route and it's still hiked today to commemorate the Rambler's legacy. So this countryside rights of way act initiated in 2000 included access to mountains, moor's, heath's and dunes. And really only 8% of the [00:11:00] land was opened up to public access. This access only included daytime activities for things like picnicking. However, in 2007, England opened up the entire coastline to the public.

So Ken we've looked at both generous and partial systems. What does low access look like?

Ken: And then I think you have something like the US and Canada, where the Canadian or American property owner holds amazing powers of exclusion, where in almost all cases,

except for where there's prescriptive easement or an existing rights of way, and those are few and far between, the American landowner can put up a sign, put up a fence, put up a wall, or just ask you to get off the property. And he, or she would have the perfect legal right to do so. So those are basically the three systems that we see in kind of the industrialized Western world.

Claire: When I first started this project I wasn't really sure how a right to roam [00:12:00] would fit into a North American context, mainly because of how strong our private property rights are. I mean, trespassing is a serious offense here that can land you with a hefty fine and a criminal record. But I also thought it would be difficult to have the right to roam catch on because we have such sophisticated federal and provincial park systems as well as conservation areas. So I guess, what do you think about this? Do you think that we still need this level of access? Given how many parks we have available in Canada in the United States?

Ken: In the US 35% of the US is public land, you know, over a third, that sounds like a ton right. You know, like, okay, maybe we don't need the right to roam because a third of the US is public and therefore, you know, mostly roamable. However, when you kind of look at where the public land is situated, it's not accessible at all to the typical American, you know, these, these states where all the public land is, you're looking at states like Alaska, Nevada, Utah, [00:13:00] Idaho, Wyoming. That's where 62% of the public land in the US but guess what? Only 4% of Americans live there. Whereas you look at like the original 13 colonies on the Eastern seaboard. That's where 30% of the US population is, yet there's only about 3% of public land. Or if you look at these like Great Plains and Midwestern states everywhere, Iowa to Texas, to Oklahoma, Illinois, Indiana. Those are less than less than 3% public land. That's almost 97, 98% private land. There's not a lot. There's no national parks, very few state parks. And what you have is, is, um, very small and few and far between. So when someone says, oh, you know, the US has this amazing national park system. Like, yes, I agree. It's, it's amazing, [00:14:00] but it doesn't treat or solve our everyday recreation needs where we should be able to hop on a bus or get on a train or just leave the front door and have a few interesting walks to go on that go through green space.

So, but yeah, I, I tend to think the right to roam is the way forward and thinking about creating more state or provincial or national parks because those days are over. You just can't do that anymore. They're super expensive to buy up that land from people. And we're not going to see another grand canyon national park within our lifetimes. And so I, I think the key is, is the

right to roam. Um, because it's not setting the sideline. It's just opening up almost all private land.

Claire: So I'm studying to become a planner and I grapple with this perceived need for cultural reform in order to [00:15:00] create change a lot. I've also been grappling with this thought throughout this project. Like how can we really rethink private property when it's so ingrained in our cultural values and our economic and political systems. Would you say that the right to roam is kind of a part of the cultural fabric of the places that use it?

Ken: I just think there's something in Scottish culture and probably exists in Nordic culture as well, where people want to be governed and to govern in a way, not so much to maximize individual freedoms and liberties, but for the common good. And I don't know exactly where that comes from, but it's, you can see it in all sorts of laws, especially in the Nordic countries where you have amazing social policies, whether it's healthcare, parental leave, you know, I could go down the list, but all that said, I don't want to make this right to roam some, like, just like the socialist [00:16:00] policy, which I know would alienate, especially a lot of American voters. In Sweden, it was actually the conservatives who fought most fiercely for the right to roam. They saw the Swedish right to roam called *allmansrätten* or every man's right. I'm sure I'm butchering the pronunciation of that, but, um, they saw it as a way to feel pride for your country, to embrace your country, to go out into the countryside and feel strong and sturdy and, and, and all of that. So I think there's very much a conservative argument for the right to roam as well as, uh, as opposed to liberal.

Claire: Ken doesn't think this kind of change happens overnight. Rather it is a generational one by teaching children at a young age about the intrinsic value of land and the natural environment and humans place within those ecological networks is quite important. And it's about slowly changing our mindset about property and land. So Ken, do you think it would [00:17:00] be difficult to transition into this kind of access?

Ken: I think it's going to take a long time to change. Um, when I spoke with some of the folks responsible for the Scottish right of responsible access law, they said the law was. They also publish this really great access code, which kind of outlines what you can do and what you can't do. They said that was great, but what wasn't great was kind of educating the public about these things. And that's when you saw, you know, problems with littering or problems with say like mountain bikers versus horseback riders or stuff like that. So, and that's, that's not going to be just worked out in a pamphlet or, you know, just with, you know, some like

countryside ranger talk 10 minutes, it's going to take a long time to change those, those value systems and belief systems and just leave no trace ethics and, and all of that.

But yeah, I think it's important just to be [00:18:00] realistic about it, but then you can point to how with education, as we've already talked about, and with enforcement, you know, maybe we need not just national park Rangers or provincial or national park Rangers like yourself, but countryside Rangers, like we have countryside Rangers here in Scotland who, who helped to kind of deal with access stuff. So they'll be kind of going over local authority, property, and a bit of private property dealing with issues like that. But it also needs to be said that sometimes opening up access actually improves people's relationship with the land.

Claire: So really, it seems like if we open up more land for public access, we can achieve this cultural change that shifts how we see land and how we see our relationship with land. What do you think the right to roam can do for us [00:19:00] as a society?

Ken: There's just something kind of, I don't mean to be condescending, but something kind of simplistic. I might even say backward thinking of yourself as a landowner and thinking that let's say you have 50 acres that all of this soil is mine, all of this grass is mine, all of the water running over it and under it is mine. It's just such a momentary view of this world, which has been in existence for what, like four and a half billion years and all the animals and, um, species and humans that have trawled over and lived on it beforehand. It's just like, I don't think, I think with this kind of this long-term view in mind, seeing [00:20:00] yourself as this landowner, over 5,000 acres, it just seems kind of simplistic.

So I think kind of more up-to-date and enlightened way to think of it is okay, maybe this land is mine, you know, maybe it's okay private property still sort of exists, but maybe it's also yours. Maybe it's also ours. So, yeah, I think experiencing something like this and Scotland or Sweden, or maybe someday in Canada or the US it'll just shift how we think of ownership. We'll just think a little bit less about mine and yours and a little bit more like ours. And that has a great benefit of changing how we think about access, but it also has a great benefit of how we think about creating the environment.

Claire: So can, why should we ultimately care about this? What is so valuable about having access to land and nature and wilderness?

Ken: [00:21:00] Yeah, well, like I said, it's something that I think will improve our lives, but let me break that down a little bit like physical health. I mean, no one needs to argue that having green space is good for our physical health. It's good for our mental health. There's lots of

studies that show that walking in a green space versus kind of an urban environment next to traffic, that the people in the green space, um, we're going to feel a bit mentally healthier with lower levels of depression and anxiety, better memory, blah, blah, blah there's studies.

That show that it's good for a sense of civiness, you know, community members to see one another face to face and not just, you know, on their drive to work or whatever, waving from the cars, but actually being able to like, see, look each other in the face and say [00:22:00] hello and have a boring conversation about the weather, which may be boring, but it's just good for, you know, your, your society.

It's good for a sense of equality. Now in the UK, we have here probably as bad, a wealth inequality as we have in the U S and I'm sure it's not that great in Canada either, so the rich own, the great bulk of the resources and everyone else does not. And that just, that just does not do good things for the fabric of society. It doesn't, it's not good for public trust. It's not good for, um, just feeling like equal with one another. Now in, in the UK and Scotland, I can go on this thousand acre property and see this big mansion and think to myself Hey, that guy, he owns a lot of land, but you know, I also sort of own that land as well.

So it kind of softens this feeling of inequality, it kind of [00:23:00] equalizes things. And I think that's very good and important for society. And lastly, it's just a daily sense of freedom that we can feel, you know, sometimes in North America we're free people, but do we really feel free all the time? You know, whether we're stuck in this miserable job or have student debt or mortgage, or, you know, an endless list of bills that we have to pay until we're 65 or whatever. I think something like the right to roam where, you know, you can get out and walk across that empty field or through those woods or up on that hill and look to the horizon and just say, Hey, let's go this way this time. That's like a steroid shot of freedom. Um, and I think this should be a [00:24:00] human, right. I think it's always been a human right. That we've just kind of lost. And it's something that needs to be reclaimed.

Claire: After I'd interviewed Ken, I realized that bringing something like the right to roam to Canada is not that unrealistic. There are already examples of informal and formal land agreements between property owners and the public that create opportunities for outdoor recreation. One of the first things that came to mind is the Bruce trail, which runs along the Niagara escarpment in Ontario. I spoke with a land use planner from the Bruce trail Conservancy to learn more about this type of land management.

Hey, Joel. Thanks for being here today. Can you start by introducing yourself?

Joel: um, so my name is Joel Swagerman and I'm a land acquisition planner with the Bruce trail Conservancy. Uh, I've been with the BTC for almost four years now. Um, so I started in the private consulting world and, uh, sort of transitioned to nonprofit. And so at this point I have over a decade of experience working as a professional planner, and I'm one of [00:25:00] two planners on staff at the BTC and together with a volunteer support, we, uh, execute the land acquisition program.

Claire: And can you tell us a little bit about the organizational structure of the Bruce Trail Conservancy?

Joel: Yeah, that's a great question. And it's, I think it's important to note here that we aren't just a trail organization. we're also, uh, one of Ontario's largest land trusts. We care for over 12,700 acres or 5,000 hectares of land, along the route of the Bruce trail. So it's kind of a two-pronged organization in that way. We're governed by a 19 member board of directors, which is quite large by most standards. Currently a BTC has a staff of approximately 20 people, uh, working in fundraising communications, uh, organizational resources, conservation and trail finance and land acquisition.

Claire: So can you just explain why the Bruce trail's [00:26:00] ownership model is quite unique?

Joel: So the trail crosses land of hundreds of different landowners. and this includes the crown such as parks Canada, Ontario parks, Ontario ministry of natural resources and other public agencies such as conservation authorities. So maintaining the relationship with those organizations is critical to our success as a trail organization and, and for our conservation work.

Claire: So I think it would be good if you gave us a bit of a history lesson about the Bruce Trail Conservancy, like how did that trail system come to be?

Joel: Yeah. So BTC has a pretty interesting history. Um, that precursor to today's BTC was formed in the early 1960s. When a few interested people living and working in the Hamilton area form the Bruce trail. And, uh, the idea was to try to protect the Niagara escarpment from what they saw as increasing [00:27:00] development pressures and things like indiscriminate quarry activities. And so the seed of that initial idea kind of germinated into a nature trail along the escarpment so that, uh, people could experience firsthand the unique natural features of the escarpment. It was kind of hoped that the building of the trail would draw

public attention to the threats that this part of Ontario's natural heritage was facing at that time.

Claire: With more access to the trail the goal was to draw attention to the development pressures that the Niagara escarpment. The goal has always been conservation. That goal is maintained today with several land stewardship operations conducted on the trail. Ray Lowe's, Norman Pearson, Dr. Robert MacLaren, and Dr. Phillip Gosling are the people that brought the Bruce trail to fruition. They really had the forethought to create this comprehensive trail system. After one year of the work of this original committee, there was 550 kilometers of trail [00:28:00] defined. And a third of it was open to the public. There weren't any formal agreements made with landowners. Instead, there were handshake agreements that remain very popular and the execution of the land relationships today. The Bruce trail association was incorporated in March of 1963. And in June of 1967, the Bruce trail was officially opened. Today the trail crosses over 660 private properties for the Bruce trail and maintains handshake agreements with these landowners.

So what's the difference, I guess, between the kind of formal land acquisition process and the handshake agreements that you guys have with landowners?

Joel: I wouldn't say it's completely different. Actually, I would almost say that the handshakes are part of the land acquisition process because what we've found over the years is that, you know, establishing a relationship with the land owners via a handshake agreement is one of the best things we can do to ensure sort of a future success in acquisition. These agreements are informal, like you said, and [00:29:00] they can be revoked at any time without any notice from the land owner. And early on in the Bruce trail, uh, this was recognized as a risk to the long term viability of the trail. So, through land acquisition we're able to secure the viability of the trail and steward the property according to our, our values and mission and, and control access, if that's necessary. And you're right to say that there are many sections in the Bruce trail that cuts through private property. In fact, About 270 kilometers of trail left to be secured on, on land that we own or on public land. We have those handshake agreements with over 660 land owners. Um, and that, that translates into 675 properties left to secure, approximately. So we got our work cut out for us.

Claire: Maybe this is hard to answer, but how do you think most landowners feel about having the Bruce trail on their property? [00:30:00] Like, I take it, most of them would prefer it, as it gives them closer access to the Bruce trail as well. But do you run into issues where, you

know, you're trying to execute a land acquisition or you're trying to, you know, have a section of the trail going on someone's property and they're totally not interested in it.

Joel: Yeah, it's interesting it varies. I would say, um, you know, we have a lot of people that are familiar with the trail and so they support what we're doing and what we're trying to do. but then there's lots of people that don't know much of anything about the Bruce trail and have never hiked it before and, uh, um, don't really want to entertain the idea of someone walking on their property, um, sometimes, you know, within view of their home, for example. Um, so I would say it just varies based on the [00:31:00] person. Um, I think we do have a lot of support out there. And we've been very successful by most sorts of measures for this kind of program. But, you know, we're, we're always going to run into landowners that don't appreciate what we do. And, um, you know, believe that their land is for their use only and, anyone else is trespassing.

Claire: Joel discusses that some land owners on the escarpment have remaining animosity towards the Niagara escarpment plan that was implemented in 1985 and really restricted land owners. In order to protect the environment, landowners were stripped of a lot and felt like their land was being controlled excessively. For example, the plan made it quite hard to sever land, meaning owners couldn't section off portions of their property and sell it. Because of this kind of severed relationship between the Niagara escarpment plan and landowners on the Niagara escarpment, the Bruce trail works extra hard to maintain relationships with landowners as much as possible.

So, Joel, can you [00:32:00] describe how the BTC goes about securing lands for the trail?

Joel: So the Bruce trail has mapped out, uh, what we refer to as the optimum route of the trail. So that's the route of the trail that kind of follows most closely and passes by, you know, Lookouts and, uh, natural attractions such as waterfalls, um, what we call beauty spots. So our land acquisition is focused on securing lands along the optimum route.

Claire: The Bruce trail Conservancy has mapped out this optimal trail route and works with landowners along that route to secure properties within our lifetime. This typically begins with a handshake agreement and once that relationship is kick-started, it is nurtured over time in hopes that this can transition into a formal land acquisition.

So, Joel, what exactly is the transaction like for this land acquisition process?

Joel: In the vast majority of our transactions are fee simple. So that's, you know, a traditional exchange of [00:33:00] lands for money. Um, but we also accept full or partial donations of

land, or, and occasionally we secure easements. Most of the land that we secure are severances and we're able to do that as a result of the niagara escarpment plan. The BTC is considered a public agency but we still have to go through the consent process at the local municipal level, uh, which is something that other agencies such as conservation authorities don't have to do. Um, so it's a little more work for us too. The conservation work that we do. Um, but it keeps me employed. So I'm not going to complain.

Claire: The BTC works to ensure property owners feel supported and that any issues are addressed immediately. There is a network of volunteers that work as land owner relation representatives, and meet with landowners once a year to check in and make sure everything is going well. And then discuss options for selling land to the BTC. [00:34:00] If that land is along the optical trail route, I imagine there are some risks to property when this kind of access is permitted. Can you explain some of the issues that arise around misuse?

Joel: Yeah. Unfortunately, these, you know, with a 900 kilometer long trail, these kinds of issues are bound to happen. Um, you know, we can, we can blaze the trail, um, you know, every other tree, uh, but people are still gonna wander off or get lost sometimes. Um, so these are issues that we deal with on a regular basis and, um, It's interesting with the onset of the pandemic these issues became, I would say intensified. and that's partly just because so many more people were flocking to these natural areas and using the Bruce trail. And so many of these people hadn't used the Bruce trail before, so they weren't familiar with things like our trail use guidelines, or, regular, you know, everyday [00:35:00] common sense about hiking that you might have if you were hiking for years and years. But if you've just, you know, if you've just been walking around in the city and you come to a natural area, it's, it's just a totally different, uh, environment.

Claire: It seems as though this model of land partnerships between public and private agencies is something we ought to consider in other contexts. So do you think this model can, or even should be replicated on a wider scale?

Joel: Yeah. I mean, I think it is a model that can be replicated and should be replicated. I think there's a lot better than the alternative. If you are trying to establish a hiking trail, uh, to me, the only alternative would be expropriation or, you know, in the US eminent domain.

Claire: I just want to jump in here and clarify in case some audience members don't know what expropriation or eminent domain is. It is often referred to as expropriation in Canada and eminent domain in the US. These two terms are used interchangeably and refer to the act of the [00:36:00] state taking land for private owners, often for public use or benefit. In

the United States, the fifth amendment protects against the state taking private property without just compensation and in Canada, the crown has the right to take land for public use as long as it is done so lawfully. Okay. Back to Joel.

Joel: And I think, um, I'm thinking of the Appalachian trail. Um, I think a lot, a lot of it was on public land already. So that was sort of built in, but in the land, in between, it was purchased by the government sort of through eminent domain and expropriation. It's kinda messy and it puts landowners, I think, in opposition to whatever agency is trying to secure the lands rather than working with that agency towards conservation of the land. I think while the model that we're, we're doing takes a long time and a lot of effort and a lot of work, Um, I think ultimately it, it [00:37:00] might be the better outcome. The trail might be a hundred percent secure today if the Ontario government decided to expropriate the land for the trail. You know, at what political financial cost and what kind of animosity would be generated and along the trail route. And, um, you know, I, I think, like I said, ultimately, we're going to arrive at a better result for conservation and for, for a trail, um, by doing it this way.

Claire: So Joel, when we talk about land and different styles of land ownership and management, I think it's really important to consider Indigenous people whose land was stolen by the state sections of the Bruce trail run along unceded territory and reservation land. So what does the Bruce trail Conservancy do to repair relationships with Indigenous communities beyond just a land acknowledgement?

Joel: Yeah. And, um, you're absolutely right. Like we have to do more than just the land acknowledgement, which we do have, but, um, we, we have to do more and we, we are doing more. The BTC is currently working closely [00:38:00] with a registered nonprofit called Plenti Canada, and they facilitate access and share resources with Indigenous peoples and other community groups in support of environmental protection and sustainable development goals. Um, so one thing we did recently was we worked with Plenti Canada to integrate Indigenous content into the latest edition of our Bruce trail reference, which is kind of our all-in-one resource for the Bruce trail containing maps of the trail. But now it also contains references on Indigenous culture. Um, and also, you know, sections on escarpment geology, flora and fauna, trail safety and things like that.

Claire: Thank you so much for joining us today.

I wanted to hear from people who weren't necessarily experts in the field of planning to understand and explore people's connection with the Bruce trail and how it informs their understanding of public private land management partnerships.

So I caught up with my friend [00:39:00] Spencer Dunn, who is completing the Bruce trail from end-to-end. Hey Spencer. Thanks for coming on the show. Can you just introduce yourself and give us a little bit of background on who you are?

Spencer: My name's Spencer Dunn. I work for an organization called the Canadian improv games, but I worked for a long time for parks Canada, which is how I got into hiking. Um, and I live in Guelph, Ontario. I use he/him pronouns. I'm 20, almost 29. This sounds like I'm... and I like long walks on the beach?

Claire: Wonderful. Thank you for the formalities. So you mentioned your work with parks Canada as to how you got into hiking. Have you always been interested in the Bruce trail and just like being outside?

Spencer: So my experience with hiking, I mean, I grew up in a pretty outdoorsy family. So, uh, and I grew up in Grimsby, Ontario, which backs right onto the Niagara escarpment. Um, so I spent a lot of my childhood and youth hiking on the Bruce trail in that whole area. And then when I worked for parks, Canada, where hiking is like such a huge part of the [00:40:00] culture of, of, of that world. Um, and every free second is filled with hiking or doing some sort of outdoor activity. Um, so I started trying to do the Bruce trail in a year, in a calendar year in April of 2021 sort of as a bit of a pandemic project, sort of thinking like, well, if I can't do anything else, I might as well hike. It's a safer activity I think. And I can do it by myself, um, or with close friends. Uh, and I started on April 2nd and was trying to do it in eight months. Like to finish it by the new year's, which didn't happen for lots of reasons. The world opened up a little bit and I said, I want to see some friends. But also, it's quite challenging.

It's like almost nine. It's not 900 kilometers, just shy of 900 kilometers. Um, and. As you know, in Ontario, the weather is so bizarre and changes so quickly that there are lots of weekends that it's like, okay, it's 38 degrees out. I'm not going to hike. And it's, oh, it's a minus 20 and, or freezing or raining. And I'm not going to do that either. , [00:41:00] but yeah. 84.9% of it this year. So I did just over 700 kilometers.

Claire: Right. So you talk about growing up near the Bruce trail and spending lots of time there in your youth. What does it like to have unfettered access to a trail system like that?

Spencer: Well, and I think I took it for granted a little bit, because it was literally like from the town pool, there's a side trail that goes up to Beamer point, which is a part of the Bruce trail like my shitty high school friends and I would go, I don't know if I can say shitty on the podcast, but, we would go up and like, you know, drink fireball whiskey and hang out on the

escarpment via the Bruce trail. So I think part of it is that it, you know, I, I took it for granted a little. There's some things where I forget that, um, not everybody has access to that. And I would sometimes have, you know, my, when I went to university, I had friends come and visit or whatever that were from Toronto or Mississauga. And I would just take them up to the Bruce trail cause that's what you do in Grimsby when you're, you know, a shitty teenager and I, and [00:42:00] they would go, I can't believe you grew up here. And I forget sometimes that it's, you know, uh, it's pretty remarkable when you don't live that life every day.

Claire: So what are you experiencing when you're hiking? I know a lot of people kind of enter this meditative state. Is that how you feel? And I guess maybe you could talk about the benefits.

Spencer: Well, there's a couple, I mean, physically, obviously it's pretty demanding. I was hiking. I, you know, I kept track of my pace. I was like a bit of a nerd about it and had an Excel spreadsheet and tracked my pace and steps per minute and kilometers per hour, and like tracks my average. And I know I was doing at least a kilometer more an hour by the end of the year than I was when I started. I think, I thought like I'm going to do the Bruce trail in a year and I'm going to be so jacked at the end of it. Like I'm going to be, I'm going to lose so much weight and be, just be like this ripped and that did not happen. But I also finished the year and was like, I just hiked the same distance that I hiked in April and in April, it took me eight hours and today it took me [00:43:00] five. And I like, you know, didn't ever, wasn't ever like pant, puffing and panting. Like the whole time I felt comfortable. So even just tracking that in, in physicality. Um, and then I think mentally and emotionally, I think that that is like the eternal question of hiking and why people hike and why people get out into nature.

Um, I think it does have a huge benefit. There's this whole thing right now about forest bathing. Right? And you go, if you can experience the forest and I had a friend ask once, like, do you listen to music while you hike? And I said, no, I don't listen. I think she's like, do you listen to podcasts? And I said, no, she said, do you hike with anyone or talk to them? And I said, no, I usually hike alone. And she said, why do you do it? And I said, I don't know. I think there's something very meditative about it. I like to reach some Zen areas. If we can, if we can say that way, that like, I, there were times where I was like, I have no thoughts. I have, I am, I am devoid of, of thinking, or I would just think something through so much that by the [00:44:00] end of the hike I had, over-thought it. And it had kind of cleared from my brain.

Claire: And then I guess in the context of the Bruce trail specifically, do you notice a difference in your experience or mentality when you're walking on private lands, versus when you're walking on the land owned by the Bruce trail?

Spencer: Yeah. I mean, I definitely can't speak to the official management of the Bruce trail. Cause I don't really know that much, but I do know that every time you enter private property, there's a sign. Um, I think as probably mandated by the Bruce trail, they do a really good job of, the Bruce Trail Conservancy does a really good job of like signage is the best I've seen in hiking.

But when you walk onto a private property, like, you know, there's either a Bruce trail official sign that says you are on private property, stay on the trail, respect the trail. Or there's a sign that a homeowner has put up that says, we are allowed to hike here as much as you want, but don't feed the dogs or don't whatever.

Uh, there's lots of places where. Um, you're not allowed to bring dogs or your dogs have to be unleashed, you know, whatever. There's like a bunch of rules. If you enter private property [00:45:00] and often it's like a fence with a style that you climb a little ladder, you climb because you know, it's a cow pasture or whatever.

They don't want the cows to get out, but they still want people to have access. I never felt awkward on those, um, on those, in those areas. But I am also a big white guy and I look like a big hiker and I'm sure that there are other people in the world that would probably feel less safe about walking on, like you're in like rural Ontario, no offense to rural Ontario. I love you rural Ontario, but there are lots of places where you're walking through a farmer's backfield. And I kept joking like, I feel like I'm in a Stephen King novel where it's like, wow, I really feel like I'm walking through a field of corn right now. And there's like a scary barn on the hill. Uh, and I'm sure that if I was, you know, not a big white man, I think I probably would have felt some, some discomfort in a lot of that.

Claire: Spencer raises really valuable points about gatekeeping and racism that is prevalent and outdoor activities. These are mostly seen as white elite activities. It is important to understand this and [00:46:00] work, to promote more inclusive use of the outdoors. The all-out campaign launched in 2021 supports racialized young folks in the GTA to have more opportunities in the Canadian wilderness. The campaign acts as an educational tool to promote responsible use on trails and in parks and works to include these folks into outdoor recreation.

So in your hiking, have you come across any private land where it seems like the owner has really made an effort to mediate the dissonance between public use on private lands and, or I guess just make it more welcoming and inviting for a trail walker to use the land.

Spencer: The Bruce Trail operates in a way that the private landowners allow the Bruce trail to go through. So certainly like if you are on the trail, they know, like they aren't surprised when they see people walking through their property. Um, so they know like, okay, yeah, that is, uh, expected. And in fact, a lot of places on private property, like, they've built little benches or they've built signs where they've had the [00:47:00] Conservancy, put something in, um, to make it more inviting. Like I think that's really what um, and often those, the Bruce show runs through as much as it can. I think it runs through conservation areas that are technically privately owned because they're owned by, you know, conservation Halton or whatever. Uh, but that feels like a space that's actually where I saw the most people when I was hiking. Cause then you suddenly are in an area where there's lots of people from all over the place that felt strangely sort of the most inclusive spaces where, uh, in places owned by, you know, a conservation authority.

Claire: And does the Bruce trail change over time, especially if new land owners come in and decide they don't want that trail in their backyard?

Spencer: Yeah. And that is how certainly, like there are a few stretches, the Bruce trail that cut through, especially in the Niagara section, which I can say, cause I'm from there is that people buy some pretty expensive properties on the top of the escarpment there. Um, especially in the sort of Ancaster uh, Hamilton mountain area. There's some pretty nice, uh, spots there. And fortunately [00:48:00] the Bruce show has run through conservation areas there, but there are stretches where you can see on the old map that the trail used to be 400 meters through the backyard. And now it's two kilometers around because the new landowner has said no way and put up a big fence.

And so they have to reroute you out. And sometimes the re-routes aren't obvious, it's like out to the road and across, and then to get back onto the trail, you have to cut through all these different areas. You know, that's actually something they report when they talk about a new land acquisition is how much, optimal trail, I think is probably what they say they've preserved this much optimal trail.

Claire: So that's what Joel was speaking about earlier. The BTC tries to preserve optimal trail whenever possible, but it makes it difficult when new property owners are quite self-interested and not concerned with the value that the trail brings to the public.

And I just want to briefly discuss this value that the trail brings to the public. There is a lot of value in bringing people into nature and preserving our relationship with land, wherever possible. The idea that making wilderness or nature off limits to people is antithetical to environmental [00:49:00] protection and care. When people feel a part of the land, they're more connected to it. And thus more likely to make decisions in their daily lives that will improve and maintain the quality of that land. Spencer discusses how different people experience outdoor spaces and activities differently. There are cultural components to how we experience nature, and it's not right to believe one is better than the other. This leads to the othering and exclusion that I was talking about earlier. And I guess this kind of ties into the whole question I have about private property and how we organize our land. Because it's centered around the idea that there's one person or one company, one individual, one family, whatever you want to call it, that has control over that land.

And whatever they decide to do with that land is their choice. When really land is this collective common good. And there's not one correct way of using it or one correct land owner. And so I guess that's, these questions are what I'm thinking about as I'm going through this project.

Thanks so much for [00:50:00] being here, Spencer. I really appreciate it.

I also spoke to my friend, David. He owns land near The Blue Mountains and there's a section of the Bruce trail running along his property.

David: So I live in the town of The Blue Mountains. I'm about 15 minutes west of Collingwood and I live on a 112 acre farm. And, At the back of our property running along the property line that separates our farm from the farm immediately west of us runs the Bruce trail. And so if we walk down the lane that basically divides our farm and half we end up on the, on the Bruce trail.

Claire: So, David, what is it like having the Bruce trail in your back?

David: Having access to the Bruce trail, in addition to having access to this wonderful property we live on, um, was really exciting because I, before we moved here, became really [00:51:00] interested in wildlife and, plants and, uh, in the spring as the snow melts that I would go out looking for the first little flowers that would appear somewhat appears while there was still patches of snow along the Bruce trail. And, um, so there was kind of a progression of, of flowers, particularly flowers, but also, but also the trees that gradually

started to appreciate the different species of trees that grow along the Bruce trail. And, uh, so it was, um, all was really neat as the season progressed.

And, and that really reminds me of the other thing um, there are very few times when I'm going about my day when my brain isn't just constantly chattering away about totally useless things and [00:52:00] sending me the same useless messages that it has for the previous decades. But when I get on the Bruce trail I find I am so drawn into the scene that's unfolding in front of me as I move along, that I tend to be able to get away from that, that incessant chatter in my head. And it's just such a delight to, um, to just have everything fall away except what's right there in front of me. And it's just a, it's such a peaceful, tranquil, experience.

Claire: David reminisces about the seasonal changes the trail brings and how stunning of an experience at all is in June and July. You see the raspberries and blackberries come to life and different species of plants and animals that you can't see anywhere else. David feels so connected to nature every day, walking along the trail [00:53:00] allows David to take everything in, be present and slow. The constant nagging that many of us have in our minds.

Can you explain how the trail came to be on your land?

David: So when we first moved here, uh, there was only one trail going into our Bush at the back of our property yard. Our property has 35 plus acres of mature maple at the back of a, what, what we refer to as a string, 100 farm, our farm's long and skinny. So, um, When I would go to the back of the property, the trail that went back there only went part way into the Bush. So gradually I extended that trail till I could get right back to the property line where the Bruce trail was. And In the process of working in the Bush over the years, one day I discovered a cleared trail near the back of the property near the [00:54:00] Bruce trail that didn't seem to start anywhere and didn't seem to end anywhere.

Claire: David explains that he once found an old mail road that ran through his property. He went to the Bruce trail with the idea that this mail road should be transformed into a walking trail. Once again, the Bruce trail loved the idea and took David up to his offer. David and the trail association cleared the trail and made it as accessible as possible. This led to the creation of other trails as well. Landowners like David, who encourage public access on private lands are how this trail is made possible. It is amazing speaking to someone who understands the benefits of getting outside and walking and wants to provide those same benefits to others.

So, David, is there any kind of formal contract you have signed with the Bruce Trail?

David: It's not a formal contract. It's um, I guess you'd call it a handshake agreement. It's an agreement which I can back out of at any time at a moment's notice for whatever reason, but also an [00:55:00] agreement that they come back out of at any time, for whatever reason.

Claire: Have you had any instances of misuse on your property or on the trail,

David: We haven't had any problems with people misusing the property. We have had a few occasions where, because we have a trail coming into the Bruce trail on our property, where the Bruce trail makes a turn. Sometimes people miss the turn and continue and end up on one of our internal bush roads. And we have had people end up walking right through the center of our farm and ending up at our house or club or close to our house and saying, you know, we think we're lost. So we just redirect them back to the, back to the back of the property.

Claire: Given your personal experience with the Bruce trail and this kind of land relationship where public access is welcomed, do you think it's important to provide [00:56:00] this kind of public access within other contexts?

David: I see a lot of benefits. I think, uh, first and foremost, more people start to understand and support the need for conservation and, part of that, is preserving wetlands and endangered species. My wife, Suzanne and I are really interested in birds. We feed birds here on our farm and I'm, I guess, a part-time birdwatcher. I occasionally go out and just sit with a pair of binoculars and, and look for different, uh, different birds, or just look to see what birds are, are in a particular area. So I think as more people become aware that the bird population has really seen a dramatic decline for some species of songbirds in the last 15 years, they have a greater appreciation for the fact that if we don't [00:57:00] conserve certain kinds of, of lands and not just for birds, like, land that grows milkweed for butterflies as an example. So I think that, I think there's an educational value there. And generally a, um, uh, an opportunity for people also to see the need for having more biodiversity. And I think that all feeds into people having a better understanding of, of global warming and, and, and why it's important for us to all be involved in that struggle.

My attitude in general is even though we own this property, I kind of think in terms of that, that really rather than strictly only at, for ourselves, we're really more like land stewards and we're, we're here for a very short piece of a piece of time, just really a speck of time, and then we're gone and then someone else is the steward of this land. [00:58:00] And I think other parts of our, um, landmass should be approached in the same way. I think it's really

unfortunate that generally speaking people with more money have more access to land and can shut it out so that people who have less money or are more destitute don't have access.

Claire: And I guess before we conclude, is there anything else you wanted to add?

David: Well, just one of the other things that occurred to me when we, when we talked about People having more access. I got thinking about housing, and we're in a housing crisis right now. And, we have lots of opportunities to develop housing that's more attainable for people with less money. And one of the options is co-op housing. And, um, one of the [00:59:00] other options that has started to be developed more recently in the province is called life lease housing, where you have some equity in the housing, but you don't actually have ownership. So these are models which are, which are based generally on a nonprofit model where people can obtain more affordable housing. And there's an opportunity for more people to have housing with this kind of housing. So it's not quite the same thing as the, um, uh, right to roam idea, but it's maybe a right to. Uh, right to having a roof over your head, which could be another right for everyone in the province.

Claire: David raises a really valuable point. When we talk about land and ownership, we must also talk about housing and our housing crisis. I'd like to do a separate series on this issue because there's so much we can talk about.

If that's something you [01:00:00] think you'd be interested in hearing, please send me a note. And if you want to learn more about decommodified housing and what it could look like on public land and how we should use public land to build this kind of housing, you should take a look at the counter planning exercise my colleagues and I at McGill produced in a Studio course this year, I will link the report and website in the show notes for you to see our ideas and learn more about this idea of decommodified and affordable housing.

We heard from a lot of people today, and it was a bit of an information overload, but hopefully you learned something about different examples of land access that contest and challenge our dominant property regimes. And we will be doing more of that in later episodes of this. In the next episode, we'll be learning about waterfront private property and why that's such a hot topic in planning right now. Thanks for tuning in and we'll see you next time.

As usual, you can see all of the resources used to create this episode in the show notes below. Thank you again to my interviewees, Ken Ilgimas, Joel Swagerman, Spencer Dunn and David Ruppel.

3.3 Episode 3: Waterfront Property, Landscape Connectivity and the Public's Access

In the third episode, the podcast looks at waterfront property, legal title, and how waterfront development can be executed in a socially responsible manner. This episode is slightly more technical than previous ones and introduces tools urban planners and designers have to improve the public's access to land and water, including intensification and Section 37 of the Ontario Planning Act. This episode also explores landscape connectivity and how using this lens in planning and development can ensure we are including the surrounding context of land into our work.

The episode includes interviews with two experts in the field: land use planner Don May and urban designer and landscape architect Pat Bollenberghe. Don and Pat discuss why water and access to water is important to the public, the legal title of waterfront property, the role of the planner and designer in maintaining access to land and water, as well as tools planners and designers can use to plan with the public at the forefront of decision making. Don and Pat use examples from different projects they have worked on to solidify the listener's understanding of land and access, and encourage the engagement of community members more closely in the planning and design process to ensure we are planning for people.

The episode concludes with a brief case study from the Town of The Blue Mountains in Ontario, where there is conflict between public and private access along the waterfront. The case looks at the Aquavil development along the water on Blue Mountain Drive, where informal public access was granted since 1937, and is now changing with the new owner. Public consultation documents reveal the anger and frustration that members of the public have about the removal of this access. This case study demonstrates a larger trend of increased private property along valuable waterfront. I conclude with a call to action for how this development can be improved to ensure public access to the water is maintained.

Episode 3: Waterfront Property and Public Access

Claire: [00:00:00] Hello everyone and welcome back to on common ground, a podcast where we look at our system of property ownership and explore different forms of land access that challenge dominant property regimes. I'm your host Claire.

So far in the series, we've looked at Indigenous forms of land management that contest colonial property regimes, as well as the Right to Roam and the Bruce Trail, that offer alternative forms of access that challenge sole ownership. Today, we are going to be exploring waterfront property rights and how they can be tricky to navigate for both private land owners and members of the public. Waterfront development has become a popular topic amongst urban planners and designers, waterfront residential development offers alternative land use for post-industrial waterfronts and often attracts luxury condominium developers to revitalize these areas. Although waterfronts offer an opportunity for cities, they also pose many challenges: building on waterfronts restricts the public's access to bodies of water that are inherently un-ownable, private property also disconnects landscapes, which disrupts the movement of human and non-human lives.

Historically waterfronts have played a vital role in [00:01:00] establishing human settlements. Water is a life-giving resource. It is used to sustain life forms, for transportation and trade, agricultural practices, and housing and diversity of aquatic species. It is imperative that planners and designers working in waterfront communities protect the water and the shoreline as it is a public good that we all deserve access to.

In today's episode, I'll be talking to an urban planner, Don May, and a landscape architect, Pat Bollenberghe. Both Don and Pat have extensive experience in planning and designing for waterfront communities and have a personal affection for the shoreline. I will be bringing in a case study from my home near The Blue Mountains in Ontario, where this question of waterfront development becomes quite important.

Hello, Don and Pat, thanks for being here today. I think it would be good if you started by introducing yourself and maybe telling us a little bit about who you are and your professional expertise.

Don: My name is Don May. I'm a land use planner. I'm proud to say that I'm in the first graduating class of undergraduate planning at Ryerson university in [00:02:00] 1973. So in the early seventies, undergraduate planning schools were starting to develop with, in our area with Waterloo and with Ryerson. I chose the consulting field as my area of practice and In the

consulting field, it was a wide variety of projects, obviously, but, very basic, land use issues. That's what we worked on through my 45 year career. I'm proud to say as well that I was president of the Ontario Professional Planning Institute in 2003 to 2005 where I was chosen to represent Ontario on the Canadian Institute of planners.

Pat: My name is Pat Bollenberghe. I'm a landscape architect and urban design consultant. I practiced for approximately 45 years as well and graduated the same year as Don in 1973. My beginnings though, started in the school of architecture and completed three years [00:03:00] before making a strategic decision to transfer to landscape architecture. Because the premise of all the work that I did really started with the importance in the context of the site itself. And that really led me into my career. I was a founding partner in a consulting firm with its base in Toronto. And my work really led me into an international kind of geography. And I led the urban projects within our practice, which focused primarily on institutional work, campus work, waterfront streetscapes, urban parks and squares. And I really sort of led, Contingent of our, of our scope of work. It led me internationally to many interesting places around the world to do master plans for national parks as well. So it was a very rewarding period of.

Claire: So why water? Why is it [00:04:00] important? Why should we be considering waterfront and access to water when we discuss things like land use and urban planning?

Don: Water is special in my mind, it's spiritual and something we can all use and enjoy. And what people have to understand is no one owns water and therefore everyone has the right to enjoy and use water. Property rights are subject to the rights of the crown. And when you look at a deed, it always starts out that way. And in the case of water, water is a resource owned by the Crown, and therefore you have the right to navigate water. You can go on water, you can travel where you want on water without permission, because it has that public right of the Crown. So it's a very, very important resource. And consciously you have to be aware that everybody owns and has the right to water, [00:05:00] subject to those permissions. I think that's very important.

Pat: Let me just, just add my, my thoughts on this. My beginnings and my birthplace is actually on the north sea in Belgium. And so in my first seven years, you know, I really developed a very deep and strong connection to the water's edge, which I engaged with at a very young age, on a daily basis. And Don is absolutely right. You know, there is this magnetic pole to a shoreline. It's very powerful. It's universal. I think everyone, you know, has this draw to the water and it's a resource to engage with year round. It's not just a summer resource,

but I think it's a year round resource . And that brings incredible interest in the work that I have done. It has the potential to animate and to affect our lives on a daily basis. And that is really, uh, instrumental in thinking about our lives [00:06:00] and what, you know, what brings us joy and pleasure. And the water certainly is very high on that priority list. And so that brings certainly an area of interest to me.

Claire: Don and pat are absolutely right here: waterfronts really draw people in. They captivate us. They provide us with a sense of peace, tranquility and connection to nature. Water is a public right, and needs to be maintained as such. So Don and pat, can you explain what makes waterfront property different from, you know, regular lot lines? No one can own a body of water and I guess no one can own a shoreline. So where does property titles start and finish?

Don: So waterfront land now we're looking at from the land perspective is to the water's edge and the water's edge is ever changing. So when you look at, when you look at ownership, you often look at the high watermark that it's been established to, but it really is a moving target in terms of the ownership being described to the water's edge. And I think that's important [00:07:00] in the case of water lots, which is kind of a different subject where the lot itself has ownership, extending under the water. And you have to think about this and there's quite a bit of it around on the larger bodies of water. In the case of a water lot, the title is under the water, but you don't own the water above. And people still have the right to cross it where it's navigable, but you could say put piers down and create a dock in that area. But again, the dock cannot obstruct the navigable waters. So I'd say water lots are very restrictive as to what your rights are because even the peer and the foundations would require approvals. And then we get into beaches and beaches are part of really the aspect of the high watermark, as we've seen in places like Wasaga beach now where the water has come up so [00:08:00] high it's taken over at the beach. So in the beach areas, you have associated public rights to walk along those beaches because of that, it gets somewhat tricky in a bit of detail, as you get closer to the ownership of the deed. So. People have a legal description into the beach, but it's subject to the waterline and it's pushing back a bit. So it's really a moving issue, but where the beaches are, certainly the ownership is not the beach. It's for the public tone that is associated with the water.

Claire: This kind of changing access is difficult to navigate as a property owner. And as a member of the public, something we talk about in our urban planning school is in formality versus formality in space. Public space sometimes offers informality because the use of it is not restricted or mandated in a contract, people can use that space differently. However, I

mean, it does get very tricky when we see things like encampments in public parks, because that use of space is not something municipalities will [00:09:00] allow. But that can be an episode on its own.

So informality can exist along waterfronts where perhaps a private land owner allows public access on their shoreline or an old easement is used as a walking path between the street and the shoreline, or even informal, no trespassing signs along the water that don't actually have legal standing. People should have the right to navigate waters and walk along a sandy beach. That can not be taken away with private property, but it is unclear who has rights in this case: a private landowner may believe that they own the entire shoreline and that any person walking on it or paddling across the water is trespassing. Where a member of the public may believe that they have access to that shoreline and therefore can walk along as they wish. This informality leaves people confused about their place in relation to the shoreline.

Pat: Yeah. I just like to add another comment to that if I could, you know, as humans, we all feel, I think that we have this sort of desire and our human nature is to have a universal right of access to water, which is such a common [00:10:00] resource we all cherish. And you know, when you look at the definition of what is legal, what brings into question, I think for most of the public, is, is it actually accessible? Can I enjoy it? Do I have access? Is it universally implied? And I think what makes it complicated is basically history itself and this sort of notion of, and I'll call it personal nut gathering over time. Because I think what's happened is as people have purchased, you know, water frontage, there is this sort of thing of, well, that's mine don't even think about coming here. And you know, I think, you know, going back to this kind of human nature issue, I think we all see struggle to some degree with, um, you know, shouldn't, we all have access, regardless of ownership and it really does become quite complicated with history wrapping itself into that question.

Claire: Maybe you guys can talk about important planning and design considerations when we're thinking [00:11:00] about waterfront development and we're going about executing that waterfront development.

Pat: You know, when we think about what decision-making becomes important when we consider development on a waterfront piece of property. And I think, you know, the challenge is inevitable. Always to seek an appropriate balance with the development programming and wishlist and an open space programming and an accessibility wishlist. And so it brings into the design considerations, always the issues of the importance of maintaining a balance

where we provide watersheds and view sheds to the water where we provide clear signals and design for accessibility, where things like stewardship, because waters, waterfronts are not all these urban and, you know, so we need to [00:12:00] also kind of in the design consideration think about protection and sensitivity and stewardship for those lands and protection of the natural assets that the context of that site may have. And so it's really a kind of a mixture of really important decisions that need to be brought into place so that we, you know, we really preserve the integrity of those very valuable resources.

Don: Most of our cities and towns started at the water's edge. And it was an important edge of the water where in the case of Winnipeg, two rivers came together and the forks became the start of Winnipeg or Toronto started at the waterfront where the train tracks went across and I'll get to that sort of a bit later, but in many or for the settings, intensification has been permitted in exchange for giving the public access along the water's edge. So again, We're dealing with more than likely [00:13:00] redevelopment, whether it be North Bay, whether it be Barrie, whether it be Toronto, it's the railway is moving out from the water's edge. The town is coming to the water's edge. But the opposite of that in rural areas, conservation policies to protect environmental areas have resulted in either significant restrictions to prevent development from going near the water. Farms have to issue their farm plans now, so that they're a waste and that doesn't get into rivers and things beside them. The other side of it is, are a good examples. Our conservation authorities have stepped forward. They are protecting the shorelines of our, of our water areas in many cases some areas need to be protected even from the public, to the extent the trails would damage those environmental areas. So there isn't even a protection of the public [00:14:00] access within conservation areas of environmentally sensitive areas. So I think those are the two different dynamics that we're working with.

Claire: So Don and Pat raised an interesting idea here, which is intensification. Intensification involves essentially increasing development permissions in an area, which often looks like allowing higher densities. When intensification happens on waterfronts, it can actually lead to improved public access. This is obviously dependent on the previous use of the waterfront.

Cities and towns across North America were developed along waterfronts because of the ease of access for trading and water as a valuable agricultural and industrial resource. When industry leaves, waterfronts often become derelict brownfields, rendering them useless to the public.

Municipalities, especially smaller ones, lack the resources to conduct the necessary environmental remediation that is often needed before making that land usable again, by permitting residential development and intensification, you essentially funnel private money into these areas to do the necessary environmental remediation and development, and then [00:15:00] cities and towns can mandate community benefits such as public access in that development process. This surprised me, I always thought that intensification would restrict public access to the water. When a lot of the time, if that development pressure didn't hit the waterfronts, most of these areas, and especially in old industrial cities would be completely off limits for citizens.

I think as long as municipalities function in this neoliberal era and within capitalist systems, then this intensification with the hope for community benefits and public access to the waterfront can provide a good solution. However, it doesn't really get to the root of the issue, which is that if you do not own land in this country, you are excluded from participation in that space. It is also important to recognize that this exclusion is often race based and affects racialized people the most in later episodes. In my research paper, I will dive into this exclusion more closely.

Don: I concur with Don's assessment of how, for instance, railway lands have become prime sites for reinvention and reconnection to our waterfronts for both the [00:16:00] public and the private. And I think the new uses that we're experiencing are certainly open space and Parkland. But also residential development and institutional and cultural, uh, uses as well because it is such a desirable place to be. And I think the best examples are most evident where the context of the water from the site itself and the context of adjoining land uses are considered, whereby important linkages and view sheds are maximized because I think sometimes we get trapped into looking at a site inwardly rather than outwardly as well. And this is really critical because you know, it's really important that those connections are split, teach it to be designed into, you know, the places that we're designing on the water.

Claire: What pat is referring to here is landscape connectivity. In the context of urban planning and design [00:17:00] landscape connectivity requires a shift of focus away from the development of a specific site and towards the larger context of that area. Rick Dawson of British Columbia's Ministry of Forest defines connectivity as "a landscape structural and functional continuity over both time and space scales, ecological systems and processes are not bound by property lines that we have created". Ecosystems and landscapes are naturally connected to one another facilitating an uninhibited flow of organisms and natural processes. Preserving and enhancing landscape connectivity can protect these natural

conditions across space and throughout time. Unfortunately natural ecosystems in both urban and rural contexts are fragmented and segregated from their counterparts, resulting in poor outcomes for landscape connectivity and ecosystem services. Private property plays a big role in fragmenting these systems and disrupting these natural processes, especially along the waterfront.

Landscape connectivity should also be understood as having social implications. Ecosystems and natural processes are not the only beneficiaries of improved landscape connectivity. Humans and communities [00:18:00] also thrive and well-connected natural and urban spaces. Rachel May, a researcher from Syracuse University has explored the concept of cognitive conductivity, which she essentially describes as “educational and aesthetic interventions that allow urban dwellers to experience their place in the urban watershed in ways that do not jeopardize its ecological sense”. This is the central focus of this episode. And I think that is what we should all strive for: a balance between ecological and human systems, as well as the recognition that they are not two separate entities. This is a really important consideration for waterfront design.

So, Pat, how can we achieve waterfront development that is ecologically sound and socially responsible.

Pat: You know, in the end we only have one waterfront and one opportunity. And we use that phrase often because it really emphasizes the importance of doing this right because you do only have one opportunity and you know, and one of the vehicles that we have and help them in [00:19:00] this decision making process is the preparation of a waterfront master plan. Because it provides an important guideline framework for the decision-making, you know buying those that need to make important decisions on the recreational programming opportunities in order to maximize a healthy, urban core and waterfront for all citizens on a year round basis, because waterfront development has, are such integral places for families together and enjoy, and for cultural activities, it is just fundamentally critical that we do this in an appropriate and proper and responsible.

Claire: So Don, while I was exploring this topic of waterfront and public access, I came across section 37 of the Ontario planning act. And it seems as though it can be an important tool in this kind of development. So can you explain what this is?

Don: Section 37 of the Ontario planning act provides [00:20:00] for bonusing where public benefits are provided. So in intensification, which is basically up zoning, where you're, where you're giving more permission in the zoning and where the official plan prescribes the

process because it can't be unstructured. It has to be structured. So the way it works is the act requires the official plan put in your particular parameters of bonuses. So in return for the zoning, developers would provide a public waterfront access of the front of the property which is what we've talked about or perhaps physical improvements like public art or pat says with development. So here the public is getting something out of the developer and the intensification is benefiting as well. So in the case of the section 37, Toronto [00:21:00] uses it extensively you're using the approval to strike that balance and there's opportunities for, as I said, public art back to Pat's point in Windsor, the public art program is, is on that same strip of Parkland extending along the river. So you're putting other facets that are important to your community. It could be that they build a public gazebo that provides access or, uh, to some facility on the waterfront. And in return they have the upzoning and again, I'll stress the structure that can't be subjective. It has to be founded in objectivity. So it's not just, let's make a deal.

Claire: So Section 37 of the Ontario planning act is quite similar to what we discussed earlier with intensification. As Don described, Section 37 is considered a bonusing tool. Essentially in areas that are up zoned, [00:22:00] which means granting more permissions for development, for things like dwelling size and density, the municipality can mandate the developer to include community benefits. The way I see it is that it is a good bargaining tool for municipalities. They can allow greater densities, which developers often want because it increases the number of units they can build, thus increasing the number of units they sell. And in turn, they can ask developers for things like affordable housing and public parks. This tool becomes especially important for waterfront. Whereby municipalities can allow greater intensification. And in turn asked for the developer to build a boardwalk surrounding the waterfront or affordable housing or things I mentioned earlier, Section 37 is really all about striking this balance that Pat discussed earlier. So Pat, do you see positive outcomes with the use of Section 37?

Pat: Well, you know, I know in some of the experiences I've had on projects where a developer is seeking an increase in density or number of units, and the section 37 benefit is that, you know, it actually provides an [00:23:00] opportunity, especially for municipalities and towns, where the implementation of the open spaces, always one of the last items, you know, to seek funding for in many cases. And it may take years for it to be realized, but under Section 37, it does allow a little opening for cash to be brought into play. And Don mentioned some great examples to implement some of the open space in the earlier stages of development. So in that way, I see it as potentially a really interesting win-win where the

community can move a project forward. Um, and the development project receives its benefit, but the public and open space receives its benefit equally.

Claire: So just to move beyond waterfronts now, um, and into more general planning, I guess, what is the role of planners and designers and policymakers in improving the public's access to water and land?

Pat: Maybe I can just speak for a moment to what I [00:24:00] see is the role of the designer when it comes to improving the public's access to land. And I think the first to me is to be fully engaged and in an all-inclusive way. And have a full understanding of number one, the context of the site, the adjacent land uses the opportunities and constraints. And number two is to be fully engaged in the program for that. And to be able to think outside the box and to be a real team player in, in that process. And this is where I think architecture and landscape architecture really need to understand each other and to work inclusively with each other. And to be a good listener, you know, with all the stakeholders. I mean, the design as a process, when it comes to public access to land needs to be one whereby everyone understands the opportunities and the process [00:25:00] involved in it. And it really then becomes a dialogue of, of consensus building, which I think is really important. So that, you know, there is a trust that develops between those that are making the decisions, those that are designing for that decision-making and those that will be accepting and engaging in the end result.

The obvious desire I think, you know, from the general public is to have zero built form on the water's edge and to make it all Parkland. And we hear that often. You're why going to, why are you allowing built form on a waterfront? And I think, you know, we as designers, we need to, you know, to pay respect to the needs of accessibility for all and provide unique new opportunities for everyone. And the waterfronts, if done in an appropriate and sensitive way can be really incredibly unique [00:26:00] vehicles to celebrate the past too for storytelling and to animate, you know, new programming in amazing ways. And so, you know what I say to those that are maybe perhaps viewed as singular and the thinking to kind of just be a little bit broader and accepting that good design and good design decision-making can actually be incredibly positive to, you know, to everyday life and wherever you live.

Don: And I think picking up on that pad as well, early planning, we segregated uses, you know, we tended to put industry over there and residential over there, commercial there or whatever. And our city suffered for that because nobody was living in the downtowns and, and, and so. You know, going back to Jane Jacobs and the death and life of great American

cities and, you know, the best planning journal anywhere. And, even when I graduated in Toronto, I was wondering why are we putting [00:27:00] people downtown? But in the end, as our world has changed and become more mixed, having natural surveillance in the downtown with people living in the downtown, as well as working in the downtown, so they don't die at a certain time of day or a certain part or utilities can be used all day long with all the different uses changing and people coming and going.

So the waterfront is the same and by people living in the water. They are providing natural surveillance. They are the people that are there along with the visitors, along with the people in town who have come to walk in the downtown area on the town piers. So that there's that whole element of, of mixed use. And, which really comes together so that those areas will not be vandalized or will not be left in danger of being used. Look at New York city in central park and how in [00:28:00] the middle of a city, a park has so many different functions. Well, our waterfronts are similar and just trying to pick up on Pat point above, saying that the waterfront should strictly be sterile and green and have nothing on the mall for large parts of our waterfront, that's true, but where the downtown extends to the waterfront is more of an opportunity for urban experience. And while it may not be as large an area they're certainly walked and they're certainly used in a very major way. And I think that's that same point we're trying to make. There's a place for everybody at the water.

Claire: And how can we ensure that we are in fact planning for the public interest?

Don: Well, I think in two ways, I mean, we've talked about municipal controls, but I think through education and dialogue so that people understand what we're talking about, as Pat said, some people have certain single focused aspects to their interest. Whereas if [00:29:00] we educate people and, and talk about it more. I think planners need to take their official plans and their documents and zoning and engage as to what's behind them and how they function. I think you need a greater level of understanding to understand the dynamics of what's occurring. And, and I think it's common sense, you know, people like to read about home improvements. So they like to read about real estate now, and there's a great interest around that. Well, there should be the same interest around the planning of our communities and, and what we're doing and, and not necessarily take things for granted so that as we evolve, we have to understand that evolution. And, and you know, planning people, fear, change, planning is about change. So we have to quantify that change. We also have to visually [00:30:00] describe it and we have to show other areas that have already gone through that change or. Or the way they culturally approach it, whether it be in Europe or

South America or wherever else, you can bring examples so people can see, oh, that's where we're going. Oh, that's what it looks like. Or, our world is changing.

Claire: Thank you so much for joining us, Don and Pat, is there anything you want to leave us with?

Don: Over the last 50 years, I think we are going in the right direction. I think we're spending public funds and public priorities to open up access. I think in the 50 years that we're looking at since planning really got started, late sixties, early, early seventies, I think we are heading in the right direction. I think we have conservation authorities that have acquired major holdings, the Niagara escarpment or the waterfronts that have been shown to happen. And [00:31:00] there's been a lot of work done behind and a lot of great people have done a lot of great things. And I think we should never be complacent, but I think we should also be optimistic in my mind that we're heading in the right direction.

Pat: I'd like to leave one lingering thought, just having gone through this, this wonderful process with you and that over the last 45 plus years, you know, I have been rewarded and enjoyed participation in helping make better places for people. But the takeaway for me is that in 1973, when my career commenced and I'm speaking purely as a landscape architect, that the role of the landscape architect and landscape architecture was actually quite surficial. And, you know, it was brought in at the tail end of a decision-making process about places for people, but that has changed over time where [00:32:00] today it is very rewarding actually to experience that design is a fully engaged process from the outset of a project. Whether it be public or private. And I think, you know, the reward for that is that, you know, places that we are now designing are more meaningful and we all gain from the outcomes. And I, I want to congratulate you on what you're doing right now, because it certainly brings forward that, you know, the process for engaging designers, engaging the public, engaging the decision makers in our political sphere. Requires this kind of level of, of new experience and I, and you're doing an amazing job. So thank you for letting us participate.

Claire: So after speaking with Don and Pat, I was feeling quite optimistic about waterfront development and kind of the opportunities for community benefits, is so desired. I want it to solidify our understanding of waterfront and property with an [00:33:00] example of contested access in a town close to where I live, The Blue Mountains. The town of The Blue Mountains is located on the Eastern shores of Lake Huron within Georgian Bay. As you drive along highway 26 towards the town proper, you are captivated by the vastness of Georgian Bay. It looks like an ocean, a distant horizon, crystal blue waters and Sandy beaches. But the

scene is disrupted by large detached homes that look like they're from a magazine. Homes that people really dream to have these homes give their owners unfettered access to the views, sandy beaches and waterfront.

The town and areas surrounding it have become quite a target for development pressures. The real estate market is hot and attracts people buying secondary properties. With several ski Hills, a vast shoreline along Georgian Bay, hiking and cycling trails and boutique shops, the area offers a four season lifestyle and meets the demands of people wishing to get out of the big city. This rapid development and influx of residents has led to conflict. Some local community members really feel like the community is changing and that the town is not doing enough to kind of preserve the local character and [00:34:00] strike a balance between incoming residents and the community that has long lived in the area. This conflict is present all throughout the town, but becomes intensified along the waterfront.

One case that has gained significant attention in recent years is the Aquavil residential waterfront development. Acquavil has bought the lands previously home to the Easter seals camp, which was a camp for children with physical and mental disabilities. The camp in The Blue Mountains first opened its doors in 1937. Based on conversations I had off the record with various planners and community members, the camp located along the water's edge, allowed public access to the water. This informal access was predominantly for neighboring residents and other local community members that were kind of in the know. Since the camp left and sold the land, it has been bought up by several developers, looking to redevelop the site into residential lots. All of the developers have been met with a ton of community backlash during public consultation. The current developer Aquaquil is no exception to this. They have put up fences surrounding the property signaling to the members of the public. That public access is strictly prohibited. Its residential plans also state that no [00:35:00] public access will be permitted along the waterfront. Between 2019 and September, 2020, the town hosted public consultation hearings. The events of the consultation have been transcribed and summarized in his 54 page document. I read through these comments and it's evident that the local community is quite angry about the developer blocking public access, especially because the public has been granted informal access since 1937.

This kind of informal access to land is quite complicated when there's a change of ownership, these informal agreements are no longer going to be maintained unless the new owner decides that they're okay with it. I think informality is important in urban and rural spaces, especially when it comes to public land and parks. However, if public access is something that a municipality believes in, it needs to be mandated and formalized or else it

will not be followed through on. It also leaves me wondering if this kind of backlash from the public would occur. If the municipality really worked to provide more beach access in between these private developments and ensured that we had enough Parkland for people to access along the water. It is a difficult [00:36:00] situation. I think the Aquavil development presents an opportunity for the Town to use that Section 37 and mandate certain public goods as part of the development. This can include some kind of waterfront access, a waterfront boardwalk trail, something like that. But I also think if we explored alternative forms of access to land, we could preserve these waterfronts as spaces for people and not for profit.

Thank you for sticking with me this far. Today, we broke down waterfront private property and why it can be a difficult thing to navigate for private owners, the public and local governments. But my hope is that we were also inspired by the possibility of waterfronts and intensification that can bring positive benefits for communities.

I still urge us to imagine alternatives to this status quo and land use and development. As we discussed in previous episodes, if we reimagine land use to become more about our relationship with the land and land as a common good that all of us should have access to, we can move away from the colonial ideals of land, which center around ownership, control and exclusion. I think that will leave us all better.

The next episode will be my final one. It will be a short one and we'll just kind of [00:37:00] synthesize and summarize some of the discussions I've had with my guests and hopefully leave us with ways to move forward. Thanks for listening.

Thank you to my guests, Don May and Pat Bollenberghe for being on the show today. All of the resources used to create this episode will be listed and linked in the show notes.

4.0 Conclusion

Throughout the *On Common Ground* series, my guests share their ideas for how to achieve land relationships beyond single proprietorship. My conversations with guests highlight that planning is about building relationships, this includes building relationships with communities and with the land. There are tools and strategies that can transform land planning into a practice that decenters private property, but building relationships is foundational to this transformation.

This section will present the tools and strategies raised during my research that negotiate better access to land. These include the Third Space model, the Duty to Consult, opportunities for the Right to Roam or similar policies, and intensification through Section 37 of the Ontario Planning Act.

Beginning with the Third Space, a concept first introduced by professor and researcher Hirini Matunga (2017) and further described in Zane Davey's (2021) piece *Decolonizing urban space*. The Third Space is an intersection of Indigenous and eurocentric planning practices (Davey, 2021; Matunga, 2017). It involves Indigenous planners, architects, engineers, and policy-makers, sharing decision-making power in the planning process alongside settler-descendant planners. The Third Space offers an opportunity to directly include Indigenous planning knowledge and perspectives into traditionally eurocentric planning departments. Encouraging this shared decision-making can achieve the following things: it can inspire decolonial planning with greater opportunity for honouring treaties through returning land and New Urban Reserves, it can generate a shift from land use to land relationships, and it can serve as a precedent for other municipal departments to implement the Third Space into their practice.

When I interviewed Zane about the Third Space, he explained that it is all about achieving a balance.

"And what this planner said it's about having the right people in these spaces, who are working as either allies or as Indigenous folk themselves, to change the system. The third space as we discussed, it's neither fighting the good fight nor completely assimilating. It's finding this balance of cooperation that I believe is ultimately where we should go." – Zane Davey

This quote encapsulates what the Third Space is concerned with. It is not necessarily about discarding a planning model that many municipalities operate under in North America, and it is also not about maintaining the status quo. It is about creating a space for the two epistemologies to meet, interact, and collaborate to create an inclusive approach to planning.

The Third Space aligns closely with the Duty to Consult, which Jenna McGuire discusses in the first episode. Jenna is the executive director and culture keeper of the Historic Saugeen Métis (HSM) community. The HSM has a Lands and Resources department that is consulted on during any significant land developments on Saugeen Métis territory. The department conducts

environmental, archeological, and cultural assessments of the development to determine if it causes disturbances to significant features. The HSM then works with the proponent to mitigate any negative impacts of the development.

Jenna explains that there are gaps in the process, mainly concerned legislative bureaucracy and policy loop-holes. Although the process is not seamless, the Duty to Consult offers an opportunity to build relationships that did not previously exist and maintain relationships that have been severed over the years. The Duty to Consult has created opportunities for municipal planning departments and private developers to learn about the Saugeen Métis community, take part in cultural events, and to include Indigenous perspectives into future work they carry out.

Relationship building seems to be the most tangible benefit from the Duty to Consult. Jenna explains that many municipalities and companies want to do better and repair relationships with Indigenous communities, but that has to be done by getting to know them.

"You have to spend time with us, and that's true of any community in all of North America. Sure they might've had books written about them, or there might've been books they've written themselves, or there might be articles, but you just can't get the same experience until you spend time with the community. So I see a lot of people trying to do their research and their homework, which is really great, but it's never going to replace time spent with people." – Jenna McGuire

Although the Duty to Consult may not achieve the level of balance that models like the Third Space do, it still presents an opportunity for municipalities to build relationships with Indigenous communities and for different land planning epistemologies and perspectives to come together in the planning process.

Another opportunity to transform land planning into something that does not necessarily center around private property is expanding access to private lands for the general public. As discussed in Episode 2 of *On Common Ground*, Right to Roam policies used in England, Wales, Scotland, Sweden, and Finland demonstrate an opportunity for the public to access all land, regardless of ownership. Bringing the Right to Roam into a North American context can lead to incremental change in property law towards a model that favours the right to access land for all. With federal or regional policies that permit public access to private lands, especially in countryside areas with open green space, people's conception of land would begin to change.

Author and journalist, Ken Ilgunas, describes his attitude towards property ownership and what the Right to Roam can achieve.

"There's just something kind of simplistic, I might even say backward, thinking of yourself as a landowner and thinking that let's say you have 50 acres that all of this soil is mine, all of this grass is mine, all of the water running over it and under it is mine. It's just such a momentary view of this world, which has been in existence for what, like four and a half billion years and all the animals and species and humans that have trawled over and lived on it beforehand. So I think kind of more up-to-date and enlightened way to think of it is okay, maybe this land is mine, you know, maybe it's okay private property still sort of exists, but maybe it's also yours, maybe it's also ours" – Ken Ilgunas

Ken describes how simplistic it is to understand land as something that can be owned. Exclusionary property law does not consider what land looked like prior to colonization, enclosure movements, and strong private property rights. Applying basic land access rights to everyone transforms this momentary and individualistic mentality that we have with land, into an understanding of the need for collective care and continuous land stewardship.

Policies like the Right to Roam are not as unrealistic in the North American context as I may have thought prior to this research. The Bruce Trail is an example of permitting public access to private lands along the Niagara Escarpment in Southern Ontario. The Bruce Trail Conservancy (BTC) is Ontario's largest land trust, managing over 12,000 acres of land along the Bruce Trail. The Bruce Trail has a unique operating system, as the trail runs through more than 600 private properties. To execute this, the BTC maintains informal handshake agreements with landowners. This agreement allows public access to the trail that runs along the property, and is one that the property owner and the BTC can back out of at any time, for any reason.

This kind of informal agreement is precarious: it is not bound by a legal contract and is vulnerable to either party backing out at any time. Because of its precarity, the BTC works to formally acquire lands with landowners that they already have handshake agreements with. This ensures that the BTC can secure and maintain ownership of lands in perpetuity.

The Bruce Trail is an example of shared public-private land management that promotes access to anyone, regardless of tenure. This access is limited; it is conditional that the members of the public stay on the designated trail, and only permits certain activities. However, it is something

that works well for both landowners and members of the public. I spoke to David Ruppel, a landowner with a section of the Bruce Trail running through the back of his one hundred acre farm. David enjoys being a part of a land relationship that permits members of the public to access his land, regardless of ownership. David is a unique landowner, he believes that property ownership creates a momentary view of this world. Humans are here for a short period of time, granting sole ownership and access to one party contradicts the interconnectedness of land with ecosystems, and the permanence of land regardless of who owns it.

"My attitude in general is even though we own this property, I kind of think in terms of that, that really rather than strictly owning it for ourselves, we're really more like land stewards and we're here for a very short piece of time, just really a speck of time, and then we're gone and then someone else is the steward of this land. And I think other parts of our landmass should be approached in the same way." – David Ruppel

David believes that moving away from property ownership and towards a model of management and stewardship can open access to land for people that do not have access and will improve our ability to care for this land for generations to come.

Joel Swagerman, a land acquisition planner for the Bruce Trail, also speaks about how the land relationships that the BTC has with private landowners are ones that can exist in other contexts. Informal, handshake agreements with landowners are fundamental to the formal land acquisition process. The handshake agreements are where the BTC builds the foundation for their relationships with landowners and establishes trust. This relationship building simplifies the transition to a formalized land acquisition process where trail land is secured for generations.

"I think while the model that we're, we're doing takes a long time and a lot of effort and a lot of work, I think ultimately it might be the better outcome. The trail might be a hundred percent secure today if the Ontario government decided to expropriate the land for the trail, but at what political and financial cost and what kind of animosity would be generated along the trail route. And, I think, like I said, ultimately, we're going to arrive at a better result for conservation and for a trail by doing it this way." – Joel Swagerman

Joel discusses that expropriation, which is the act of the state securing private property oftentimes for public benefit, would result in severed relationships with land owners. By building

trust overtime and showing landowners how beneficial the access to the trail is for the public, the BTC sees positive outcomes in landowner relationships.

Although the Bruce Trail's land access partnerships is an example that can be used in other contexts, this kind of access remains precarious. The public's access to the Bruce Trail is conditional and those conditions are mandated in law by the BTC and the private landowner, members of the public remain vulnerable to their decision making. The Bruce Trail's model offers an opportunity to encourage public access to private lands, but still functions within a system that prioritizes private property, and where the land owner is in a position of ultimate security.

In the last episode of the podcast, I speak with land use planner Don May and landscape architect Pat Bollengberghe about waterfront property and public access. Both Don and Pat discuss the importance of maintaining the public's access to waterfronts, regardless of development that takes place. They both understand people's affinity to the water and how it is an important resource that we all have access to.

Don and Pat explain different approaches to waterfront development that can ensure public access to the water is maintained. One of the most prominent being intensification and the use of Section 37 of the Ontario Planning Act. It is important to note that Section 37 is undergoing significant change and will remain in effect until September 18, 2022, or until a municipality passes a Community Benefits Charges by-law (Luyt & Squires, 2020). As stands currently, Section 37 of the Ontario Planning Act offers an opportunity for municipalities to permit higher densities and heights of developments for some kind of community benefit in return. Don and Pat drew on their professional experience with the use of Section 37 along waterfronts, where amenities like affordable housing, social services, walking and cycling trails, and parks are built by developers in return for the allowance of high density builds.

Section 37 offers an opportunity for municipalities to negotiate with developers. It strikes a balance between development that produces positive outcomes for a municipality's local economy while protecting the public's use of land. I do not think Section 37, or even the proposed changes to it, is something that will transform land planning to decenter private property from plans and policies, however it can perhaps create a cultural shift in promoting the importance of publicly accessible land.

Because Section 37 is undergoing change, there is an opportunity for stronger provincial policy that emphasizes public access. Through high-level policy, the provinces can draw on strategies like the Right to Roam and the Bruce Trail's land relationships, to ensure that communities are planning with public access in mind and not reinforcing colonial conceptions of private property. Having a kind of universal access to all lands, regardless of ownership, would help achieve this transformation in land planning practice that this research advocates for.

This research allowed me to explore alternative land relationships beyond single proprietorship. As discussed in this section, the guests interviewed for my podcast brought forth creative ideas for how to move in a direction that provides greater access to land for all. This shift can create significant changes in the way we plan our communities, in how humans see themselves in relation to land and nature, and thus improve our connections with each other and with the environment. As mentioned in the OPPI's Indigenous Perspectives in Planning Report, shifting away from land use planning and towards land relationship planning can propel us towards abandoning colonial property regimes and release us from the precarious nature of property law (Blomley, 2019; OPPI, 2020).

Using the ideas and strategies suggested by my interviewees, land planning practice can be transformed. Moving toward a different land planning practice, decolonizing planning, and re-commoning land offers an inspiring, generative and useful purpose for planning. This transformation can rid us of exclusive, extractive and exploitative practices on land that have led to the oppression of racialized people and the destruction of our planet.

By opening the discussion and by allowing access to the research, the voices, the perspectives through the medium of a podcast, we are in essence doing for information what we want to do for land use. We are building a common ground, a place where we can meet and discuss these important ideas. We can bring land planning out of boardrooms, council meetings, and academic institutions, and invite all of the stakeholders to listen and speak. By doing so we will transform our relationships with each other and the land itself.

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