

PUBLIC STATEMENT FROM THE DAVID DUNLAP OBSERVATORY DEFENDERS, RICHMOND HILL, ONTARIO

April 12th, 2012.

After six long and anxiety-ridden months of Ontario Municipal Board (OMB) mandated mediation following a four and a half year hard-fought and very public battle, an agreement was reached in March, 2012, between the mediation parties to the David Dunlap Observatory Lands OMB case. Minutes of Settlement were drawn up for signing by all parties to the mediation – the landowner, Corsica Development Inc. (a subsidiary of Metrus Developments Inc.), the Town of Richmond Hill, the Region of York, the Toronto and Area Conservation Authority (TRCA), and the David Dunlap Observatory Defenders (DDO Defenders) Inc. This historic document was ratified by Richmond Hill Town Council on Thursday, April 12th. All mediation parties had been sworn to absolute secrecy under a strict gag order until Council signed off on the agreement, but now the silence has finally been broken and the details of the settlement agreement can be made public.

The development proposal by Corsica, who purchased the Observatory Lands from the University of Toronto in July, 2008, has been the focus of a very contentious and public debate. The majority of these lands were originally purchased by Jessie Donalda Dunlap and deeded to the University of Toronto in 1935 to honour the vision of her late husband which was shared with Dr. Clarence A. Chant, known as the “Father of Canadian Astronomy” and the founder of the university’s Department of Astronomy and Astrophysics. The intention was for these lands, gifted to the university in perpetuity, to be a world class astronomy research and teaching centre as well as a public park, which it successfully functioned as until it was deemed “surplus to academic needs” and put up for sale by the University in 2007. That is when the fight began and when the DDO Defenders were formed. Led by Karen Cilevitz, this community advocacy group vowed to protect, preserve and conserve the Dunlap site’s 189.9 acres to honour the Dunlap Vision and Legacy of remarkable contributions to the fields of astronomy and astrophysics. This dedicated group was equally determined to save and protect the significant natural and cultural heritage features which have been an iconic landmark for the people of Richmond Hill since its inception.

In July, 2009, the Conservation Review Board (CRB) of Ontario recommended that approximately three-quarters of the main 177.7 acre trapezoidal parcel be designated as a Cultural Heritage Landscape (CHL) under the *Ontario Heritage Act (OHA)*, and later that year the Town proceeded to enact By-law 100-09 to enshrine this designation for that portion of the property. Approximately 70% of the trapezoidal parcel is also designated as “Significant Woodland” by York Region.

In November 2009, as a result of advocacy by the DDO Defenders and two other prominent community groups, the TRCA placed the property on their “Priority Acquisitions List”, and Heritage Canada identified it as one of Canada’s “Top Ten Endangered Sites of 2009”. Despite this, the Federal government has not yet intervened to protect the property from development, as protocol requires that they be requested to do so by the Province of Ontario, which so far has not taken any significant steps to engage in these efforts. However, continued advocacy by the DDO Defenders and others, including the Town, has recently prompted the Province to indicate that when mediation concludes they would appoint a facilitator to work with the Town, other levels of government, the Landowner and community stakeholders to determine what could be undertaken to preserve as much of the property as possible, even though it remained in private ownership.

After purchasing these historic lands, Corsica drafted plans of subdivision for the entire trapezoidal parcel, including areas within the Cultural Heritage Landscape where the Observatory Dome and other significant historic buildings are located. These plans and supporting documents were submitted to the Town for approvals in 2010. Because the significance and complexity of the site required a very principled approach to development proposals, the Town was unable to render a decision within the 180 days stipulated by the *Planning Act* and Corsica appealed

to the OMB in late 2010. Richmond Hill Council rejected Corsica's development application in May, 2011, and the first pre-hearing conference before the OMB was convened in June, 2011.

Mediation began in September, 2011, with Corsica, the Town, the Region, the TRCA and the DDO Defenders at the table. After several months of discussions, negotiations and further fieldwork to inform these discussions, the main points of the agreement reached in March, 2012, are:

- The western portion of the trapezoidal parcel (approximately 60% and most of the CHL which was designated under Town By-law 100-09), together with a southern 30 meter wide buffer/corridor to the identified Heritage Woodlot and Wetlands on the south-eastern sector, with the exception of one small area on the mid-northern edge, will be conveyed by Corsica to the Town of Richmond Hill, to be preserved and protected as public lands showcasing a natural and cultural heritage landmark
- No development will be permitted in this area, a contiguous whole known as the Cultural Heritage Precinct, and all buildings and natural heritage features will be maintained, preserved and enhanced
- Any future proposed alterations or remediation to take place within the Cultural Heritage Precinct will continue to be subject to the requirements of the *Ontario Heritage Act*, Town By-laws (including By-law 100-09 or any successor) as well as all other applicable legislation, regulations and established protocols
- For the time being, Corsica will retain ownership of the Observatory Dome, the Administration Building and the historic Elms Lea Homestead, as well as the areas immediately around them, but discussions are ongoing between the Town and Corsica with the intention of transferring ownership of these historically significant buildings to the Town in the near future
- Discussions are also ongoing between the Town and Corsica to purchase the 12.1 acre parcel known as the Panhandle, situated between the southern boundary of the trapezoidal parcel and 16th Avenue, at fair market value with no litigation, with no residential development permitted within its borders
- The historic Pump House, not previously deemed significant by the CRB or protected under By-law 100-09, will be relocated from the eastern boundary of the property to a location within the Cultural Heritage Precinct to be determined in consultation with the Town and the DDO Defenders
- There will be no infringement upon the Heritage Woodlot and Wetlands located in the south-eastern sector of the trapezoidal parcel, and a proposed storm water management pond will be created to prevent excessive drainage/run-off in or around this highly environmentally sensitive area
- A 30 meter buffer, which will also serve as a corridor for the resident wildlife on the property, will be preserved (or created by enhancement of the existing woodland area) along the southern edge of the trapezoidal parcel to maintain continuity and connect the Cultural Heritage Precinct to the Heritage Woodlot and Wetlands area located in the south-eastern sector of the property
- Corsica will pay \$1.9M to the Town for the regeneration, reforestation and enhancement of all wooded areas, including buffers to preserve the functionality of the Great Telescope and unique character of the Cultural Heritage Precinct
- The terms of the Minutes of Settlement shall be incorporated into the new Town of Richmond Hill Official Plan and the new Region of York Official Plan and a Secondary Plan for the entire site shall be executed
- The DDO Defenders will have a role in the implementation stages of the revised plan of subdivision, or any future modifications therein as they relate to the foregoing issues, before any final decisions are made or approvals granted by the Town.

Following mediation, Daphne Williamson, a Richmond Hill lawyer who acted as the litigation consultant and strategist for the DDO Defenders, said, "Even though it was initially very difficult for my client to concede even one inch of this property for potential development, in my opinion this was the best possible outcome for all parties

and a much better result for the Defenders and the people of Richmond Hill than could have ever been achieved at a full hearing before the OMB. A legacy has been reclaimed and it is a testament to everyone around the table. I am proud to have been a part of this and I commend everyone, including our mediator, James McKenzie, for their approach and commitment to this process.”

Karen Cilevitz, Chair of the DDO Defenders, stated, “The past six months have been very emotional and exhausting, but we are grateful to everyone who participated in this necessary process, with special thanks to the Town and the TRCA for their invaluable support which helped to advance our mandate for the protection, preservation and conservation of this most significant and invaluable property. We are proud of the effort put forth by our team and our commitment to Jessie Dunlap’s Vision which has resulted in the retention of at least 60% of the Dunlap Lands as a contiguous whole and as an incomparable site of cultural, historic and scientific significance, despite the egregious breach of trust by the University of Toronto against the Dunlap heirs which subsequently placed the property in private ownership.

“Even though it was very difficult for us to agree to any development on any portion of the property, after extensive consultation with all parties and experts, it became clear that some portions would be indefensible before the OMB. So we focused our energies instead on saving and protecting as much as possible and preserving it as a contiguous whole, as opposed to a patchwork of areas amid development that would have destroyed the site’s unique character and the function of the Great Telescope. We are so pleased that the most significant area, the Cultural Heritage Precinct, is being transferred to the ownership of the Town for their ongoing management and preservation.

“We firmly believe this agreement not only respects the findings of the CRB and the requirements of By-law 100-09, but preserves the integrity of the Cultural Heritage Landscape and its three principle heritage buildings, the Heritage Woodlot and Wetlands, and the wishes of the People of Richmond Hill that this property be protected and preserved as one of the last significant green spaces in Richmond Hill and also as a monument to our community values. The preservation of the Pump House, which was not previously protected, is of great significance to us and the other groups who have fought tirelessly for the protection of this site’s cultural heritage component, and we thank Corsica for recognizing its intrinsic worth to the people of Richmond Hill and the historical record.”

Ms. Cilevitz added, “We will continue to move forward, working amicably with the Town, the Region, the TRCA and Corsica, on proposals for the implementation stages of the revised plan of subdivision to ensure that the integrity of the site and the functionality of the Great Telescope are maintained. As we optimistically await the outcome of negotiations between the Town and the Landowner regarding ownership of the three principle heritage buildings and the Panhandle, we wish to commend both Richmond Hill and TRCA Staff for their dedicated role resulting in this very positive outcome. The DDO Defenders will continue to support the Town in their ongoing efforts to bring the Panhandle and heritage buildings into public ownership and custody. We thank Mayor Dave Barrow and the members of Richmond Hill Town Council for their historic vote on Thursday, April 12th, which ensures the Dunlap Legacy will continue to thrive as an integral part of the history and fabric of Richmond Hill.

“We are so proud and grateful for the faith placed in us by our supporters and the people of Richmond Hill. This has been an arduous and expensive battle, and we still have a long way to go in raising the necessary funds to cover our costs, but we know that we can count on the support of the people who value exactly what this property represents to our community. This outcome is a success for us all and for those who will come after us. Jessie Dunlap and Dr. Chant’s Legacy and Vision will live on!”

Dr. Ian Shelton, Vice-Chair of the DDO Defenders and former Dunlap Observatory astronomer, best known for his discovery of Supernova 1987A from the U of T's Southern Observatory in Chile, commented, "In order for the Great Telescope and Observatory to continue functioning as a research facility and for the benefit of all future astronomy outreach efforts, it was paramount that the largest contiguous area possible surrounding the telescope be saved. Although we would have preferred no development at all within the Cultural Heritage Landscape, the housing now being envisioned for the small area off Hillsview Drive and that within the eastern part of the property, may not be problematic if adequate controls are enforced to address any stray light and thermal issues which would have negative impacts regarding the operation of the Great Telescope.

"We are grateful for the opportunity to have a role in how any future development may ultimately occur on this site. This is the best outcome we could have hoped for as volunteers who have worked tirelessly for nearly 5 years to protect this iconic landmark, which stands as one of the foremost sites of astronomical research in Canada and the world. I see tremendous potential for this site to be a source of inspiration and enlightenment about many aspects of the natural world, with astronomy being just one part of this vision. We look forward to an opportunity to reclaim its prominence by working collaboratively with the Town, the Region, the provincial and federal governments and the TRCA, along with others from the public and private sectors."

Ms. Cilevitz continued, "We are thankful to the public and the members of Town Council for their patience and understanding of the need for absolute confidentiality as we moved through this process. We are confident that this remarkable outcome achieved through mediation and the cooperation and collaboration of all mediation parties, is a result that will be embraced by all. Now that mediation has concluded, we look forward to the possibility of meaningful engagement of the provincial government in consultation with the Landowner, the Town and other levels of government, in keeping with the Province's stated intentions, which could conceivably help protect and preserve the remaining sections of this property which have not been brought back into public hands through mediation."

The TRCA and the Region will be presented with the Minutes of Settlement during the month of April. Following that, the agreement will be presented to the OMB for approvals. However, if any of the parties who chose not to participate in mediation should choose not to consent to the agreement as formulated, the matter could go to a full hearing at some future date.

The DDO Defenders remain hopeful that those who may oppose the signed agreement can appreciate the fate that could have befallen the property at a full hearing sans mediation, and remain confident that the goodwill and commitment to positive resolutions will continue in the same spirit as it did during the mediation process and before. They believe that this iconic property can become a "Central Park" for the People of Richmond Hill and an eco-tourism engine for the Town, Region and Province, which will generate the revenues for the site to sustain itself for generations to come.

The DDO Defenders look forward to the next steps required to make this future-forward vision a reality, in partnership with public and private entities, which will enable the Dunlap Legacy to continue in perpetuity.

For more information or to offer support, please contact:

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