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of the
Environment

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NOV 26 2008

Mr. Brian Bailey
President
Citizens Concerned About the Future of the Etobicoke Waterfront
6 Meaford Avenue
Toronto ON M8V 2H5

Dear Mr. Bailey:

Thank you for your September 10, 2008 letter concerning the proposed outdoor ice skating track in Colonel Samuel Smith Park, located in the City of Toronto (City). You have requested that the proposed outdoor ice skating track be made subject to the requirements of the *Environmental Assessment Act* (EAA).

The Ministry of the Environment (MOE) has completed its review of your request and has determined that the proposed outdoor ice skating track does not warrant the preparation of an Environmental Assessment (EA), and I have outlined the reasons for my decision.

In your letter, you express concern that the proposed outdoor skating track is not consistent with the spirit of the EA Master Plan that was approved by the former Ministry of Environment and Energy in 1981. The EA Master Plan in question was undertaken in order for the Metropolitan Toronto and Region Conservation Authority (MTRCA) to obtain approval for lake filling purposes and to establish a park on the lands that were created. The Master Plan did not apply to the lands under the ownership of Humber College or the Lakeshore Psychiatric Hospital lands, which is where the proposed outdoor skating track is to be located. As a result, the City's proposal does not violate the 1981 EA approval.



Mr. Brian Bailey
Page 2.

As noted in your letter, the approved EA Master Plan was the subject of an Exemption Order (Order in Council No. 497/93), issued on March 30, 1993. This Order conditionally approved a number of modifications to the EA Master Plan that were proposed by the MTRCA, including the replacement of the swimming pond with a more naturalized wetland area. The Exemption Order did not apply to the lands within which the proposed outdoor skating track is located. As a result, I am satisfied that the City's proposal does not violate the Exemption Order or the conditions under which it was approved.

In your letter, you note that there has been an inadequate level of public consultation about the proposed outdoor skating track. In discussions with City staff, the MOE has been advised that the proposed skating track has been the subject of a number of design and planning exercises that have included numerous opportunities for interested persons and organizations to make their concerns known.

The outdoor skating track concept was first raised in the "Lakeshore Grounds: Former Lakeshore Psychiatric Hospital Humber College Area - Master Design and Implementation Plan (MDIP), June 1996", whereby a "pleasure skating rink" was conceptually shown north of the Power House building. Persons and organizations who had an interest in the park were invited to participate in the development of the MDIP and were given an opportunity to make their concerns known to Etobicoke Council prior to their consideration and subsequent endorsement of the MDIP on April 28, 1997.

In order to implement the MDIP, various improvements to Colonel Samuel Smith Park including the outdoor skating track, were identified in the City's 2001 capital budget. Concerned residents and organizations were again provided an opportunity to raise issues by making deputations to the City's Budget Committee prior to City Council's approval of the capital budget and allocation of funds for the outdoor skating track.

In order to move forward with the completion of the outdoor skating track, City staff, in conjunction with the local Councillor's office, convened an Open House on June 5, 2008 to present the conceptual plan for the proposed skating track and provide area residents the opportunity to ask questions and make comments. Based on the feedback received, a refined design will be presented at an upcoming Open House to be organized by the City and/or Councillor's office. Persons concerned with the new design will again have the opportunity to make their views known.

Mr. Brian Bailey
Page 3.

As a result of the foregoing, I am satisfied that the City has provided adequate opportunity for residents and organizations to make their concerns with the proposed outdoor skating track known and that additional opportunities will be available to participate in the detailed design of the skating track.

It should also be noted that funds appearing in the capital budget for the outdoor skating track were first used in June 2001 when approximately \$600,000 was spent on rehabilitating the Power House building and making the necessary modifications to accommodate a zamboni machine which was needed to maintain the skating track. MOE staff have been advised that additional funds have also been used in order to implement other MDIP improvements to the park.

In your letter, you state that the City failed to assess the environmental impact of this proposal on the woodlot where the outdoor skating track is to be located. It should be noted that the City's Parks, Recreation and Forestry staff have recently undertaken an assessment of the potential tree conflicts that are likely to arise as a result of the outdoor skating track. Based on this assessment, the City found that three mature trees (i.e. trees measuring greater than 30 cm in diameter) would likely be injured and that one to two mature trees would require removal. Additional trees would require protective measures to be implemented during construction, while a number of smaller, and in some cases invasive species of trees, would also require removal and/or transplantation.

To confirm these findings, the City has further advised that an arborist's analysis of the proposal will be undertaken and a formal report completed and brought forward for Etobicoke York Community Council's consideration. Area residents and organizations will have an opportunity to make comments on the findings of this analysis. In addition, the City has made a commitment to replace each tree removed, whether mature or otherwise, with five new trees. I am satisfied that the City will conduct an appropriate assessment of the environmental effects on the woodlot.

The proposed location of the outdoor skating track on the north side of the Power House building represents the preferred location of a number of alternatives that were evaluated by City staff. The evaluation process began following the contribution of community benefit funding from a nearby development in June 2005, when the City identified Colonel Samuel Smith Park as a potential location for an outdoor skateboarding facility that could be constructed with the skating track shown. This was illustrated in the MDIP, in a location south of the Power House building. It is important to note that the skateboarding facility is no longer being proposed by the City.

Mr. Brian Bailey

Page 4.

To address concerns about the potential impact of the skateboarding and skating facilities on the Colonel Samuel Smith Park lands and wildlife adjacent to the Power House building, a "Natural Environmental Assessment" (NEA) report dated March 2006, was prepared by Marshall Macklin Monaghan on behalf of the City. The purpose of the NEA report was to identify the potential impacts of the proposed facilities and mitigation measures necessary to protect any significant heritage and wildlife features that might be present. The report characterized the lands south of the Power House building as cultural meadow (CUM1-1) and noted that the vegetation present was culturally influenced as a result of disturbance and regeneration of the land. Due to the disturbed nature of the site, the majority of the plant species were found to be non-native and deemed not significant in nature.

The report concluded that should the proposed facilities proceed at the site, mitigation measures, including the provision of natural buffer areas to prevent damage to tree limbs; the construction of paths leading to the facilities to minimize shortcutting and disruption to natural areas; and the restriction on the time of year that construction activities take place to lessen the impact on wildlife should be implemented as part of the detailed design process for the facility. Although preliminary mitigation measures to manage stormwater were identified in this report, it was also noted that additional stormwater management considerations would need to be made through the detailed design process. These same considerations will need to be made for the skating track location north of the Power House building.

MOE staff have been advised that the proposed skateboard facility that was to be constructed in conjunction with the outdoor skating track on the south side of the Power House building was withdrawn by the City due to, among other things, concerns with the perceived noise and public nuisance associated with a facility of this kind. A number of area residents also made it clear that development of any recreational facilities south of the Power House building was not a proposal that the community could support given the environmental impact that was felt would occur.

As an alternative to this location, City staff investigated the feasibility of constructing the outdoor skating track on the lands west of the Power House building currently used for surface parking purposes. This location was deemed impractical given that the City is party to a long-term lease agreement with the Toronto Catholic District School Board for the use of the parking facilities and that any removal of parking spaces would likely result in the parking activity being displaced to the local road network.

Mr. Brian Bailey

Page 5.

Other locations considered for the outdoor skating track are constrained by the storage of the zamboni in the Power House building and the need for the zamboni to be stored in proximity to the skating track. Of the three possible locations considered, City staff determined that the area north of the Power House building represented the preferred location which had the least overall impact.

In your letter you raise concerns that the impact of the proposal on wildlife in the park and specifically, the impact of installing a lighting and sound system has not been accounted for by the City. You further note the presence of a Cooper's Hawk that has been seen nesting in the area within which the outdoor skating track is proposed. MOE staff have been advised that the City will be working with the Toronto and Region Conservation Authority (TRCA) to develop the detailed design for the skating facility and that measures to minimize the impact of these features on wildlife will be implemented. The City has also advised that area residents and organizations will have an opportunity to participate in the programming/scheduling of the use of the facility to ensure that it is sensitive to the needs of wildlife and adjoining property owners.

Concerns that the outdoor skating track is not consistent with the City's Official Plan or the principles of the Toronto and Region Terrestrial Natural Heritage System (TRTNHS) Strategy of the TRCA are also raised in your letter. MOE staff have been advised by City staff that the proposed outdoor skating track has been assessed for Official Plan conformity and that the proposal does not require an Official Plan Amendment. Staff of the TRCA have advised that the policies in question are not applicable to the City's proposal. I am satisfied that the City's proposal has been reviewed for consistency with the appropriate policies of both the City and the TRCA.

In your letter, you raise concerns about the City's decision to construct an outdoor skating track without establishing a clear need to do so. The decision to construct a skating track on municipally owned lands is a local issue best determined by City staff and City Council, and I would encourage your continued participation in the decision-making process.

Following the presentation of a refined design concept in the Fall 2008, City staff have advised of their intent to proceed with the detailed design of the outdoor skating track, which is expected to be completed in early Spring 2009. Construction of the facility would commence shortly thereafter with the skating track open and available for use during the 2009/2010 winter months. MOE staff have been advised that interested persons and organizations will have the opportunity to participate in the detailed design and programming of the skating track facility.

Mr. Brian Bailey

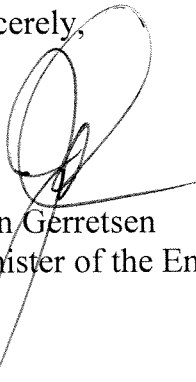
Page 6.

As a result of the foregoing, concerns regarding the use and development of the site are best addressed at the municipal level, and I would encourage your continued participation with City staff as they proceed to the detailed design stage for the outdoor skating track. Additional opportunities will be provided by the City for questions to be asked and for the City to respond to any concerns raised. A regulation designating the City's proposal as an undertaking to which the requirements of the EAA applies is, therefore, not necessary.

Should you require further assistance, please contact Mr. D. Jeffrey Dea, Project Officer with the MOE's Environmental Assessment and Approvals Branch, at 416-314-7213 or by e-mail at jeffrey.dea@ontario.ca.

Thank you for sharing your concerns with me.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Gerretsen', written over a horizontal line.

John Gerretsen
Minister of the Environment