

SUBMISSION TO

Minister of the Environment

**By: Citizens Concerned About the Future
of the Etobicoke Waterfront**

Requesting that a proposed ice skating facility
in Col. Sam Smith Park
in the City of Toronto
be designated under the Environmental Assessment Act.

September 10, 2008

The City of Toronto plans to construct an artificial ice skating track at a cost of approximately \$2.0 million. The proposed site is currently a woodlot in the naturalized waterfront park named Colonel Sam Smith Park in southern Etobicoke. It is part of a treed corridor extending to Lake Ontario which includes a creek that flows into a large wetland.

Col. Sam Smith Park is part of the Lakeshore Grounds which comprises property formerly used as the Lakeshore Psychiatric Hospital as well as land created by the Metropolitan Toronto and Region Conservation Authority (predecessor of the Toronto and Region Conservation Authority – TRCA) through lakefill, in accordance with conditions set out in a 1980 Environmental Assessment approval.

In 1992 modifications to the Master Plan for the park were authorized by the Conservation Authority. These reflected changing approaches to shoreline regeneration (i.e. creation of a wetland/marsh) and public access as endorsed by the Province of Ontario Royal Commission Report on the Future of the Toronto Waterfront, “Regeneration”. The most significant modification was the replacement of a swimming lake with a marsh/wetland, in keeping with the Conservation Authority’s natural habitat initiative.

The Ministry of the Environment approved the modifications and granted the Authority an exemption from the Environmental Assessment Act in 1993. One of the reasons cited for granting the exemption was that “there exists a Master Plan Amendment process to include public involvement and the municipal planning process in the review of the Official Plan.”

The City of Etobicoke completed the Master Design and Implementation Plan for the Lakeshore Grounds in 1996. The Master Plan was the product of extensive consultation between the then-current and future occupants of the buildings and land that make up the Lakeshore Grounds as well as local community groups and residents. Citizens Concerned about the Future of the Etobicoke Waterfront (CCFEW) was deeply involved in this process and was represented on the Planning Committee. The Master Plan was ratified by all stakeholders and approved by the City of Etobicoke. “Goal, Design Principles and Site Management Guidelines” were adopted by Etobicoke Council Resolution #178 on April 28th 1997.

This support gave provincial ministries the confidence to complete land exchanges with various stakeholders on the basis of their concurrence with the Master Plan. Major investment by the provincial and municipal governments has occurred since 1996 to upgrade and modify existing historic buildings for use by Humber College and to redevelop the Assembly Hall as a cultural centre. The Toronto District Separate School Board has recently built a secondary school fronting on Kipling Avenue in accordance with the Master Plan.

In keeping with the Master Plan originally proposed, residential uses have been eliminated from the Lakeshore Grounds. Institutional uses (i.e. educational and cultural

facilities) provide a transition between the adjacent residential neighbourhoods and the parkland. The TRCA and the Toronto Parks Department have undertaken extensive tree planting and naturalization of the open areas and wetlands. The result has been a spectacular greening of the area and increased fish and wildlife habitat.

Implementation of the Master Design and Implementation Plan for the Lakeshore Grounds was to have been accomplished through the establishment of a Design and Management Committee, a Public Advisory Group and a formal Design Review Process. None of these bodies have been created despite repeated requests to the City from CCFEW and a recently formed group, Friends of Sam Smith Park.

In June 1996 Moore George Associates Inc. prepared the "Master Plan and Implementation Plan" for the Lakeshore Grounds. This provided the basis for Etobicoke's Resolution #178. The consultants proposed that a pleasure skating track be constructed adjacent to the Power House which is one of the original Lakeshore Hospital buildings. The recommendation was as follows:

"The Pleasure Skating Track: Initially this was proposed north of the building but alternative sites should be investigated prior to making the final decision. Concern has been raised about the possible impact that this would have on the existing bird habitat."

The City is proposing to construct an artificial ice track on this exact site.

In the 2006-2008 Capital Budget for the City of Toronto a \$2 million ice skating track contiguous with a skateboard facility was approved in Col. Sam Smith Park. The proposed site was south of the Power House in an area of the park designated for regeneration in the Master Plan and adjacent to the Natural Heritage Area. As a result of considerable public opposition these plans were dropped.

CCFEW believes that the decision to construct a skating facility at the northerly site violates the existing EA approvals and the Master Plan for Col. Sam Smith Park. CCFEW has endeavoured to generate genuine and open community consultation and discussion about this proposal but have been frustrated by the City's insistence that this was an administrative decision and, therefore, not subject to a public planning process. The City recently consulted about the design of the track but not about the decision to build it at this time nor has there been any consideration of alternatives to the undertaking.

CCFEW is hereby requesting that you designate this project as subject to the Environmental Assessment Act because there are no other statutory regimes that will adequately address fundamental concerns about the City of Toronto's decision. While the decision to proceed has been made by the Parks, Recreation and Forestry Department there has as yet been no call for tenders or contracts entered into to build the facility.

The reasons for our request to you are:

1. The environmental impact of the City's proposal has not been evaluated within the context of current natural heritage policies
2. There has been no evaluation of the environmental impact of this proposal on the woodlot where the artificial rink is to be located or on the park in general.
3. There has been a lack of genuine and open consultation in the decision making process
4. The Province has both an historic and ongoing connection and involvement in The Lakeshore Grounds

This development poses a threat to parkland intended for passive recreation compatible with a natural habitat.

1. THE ENVIRONMENTAL IMPACT OF THE CITY'S PROPOSAL HAS NOT BEEN EVALUATED WITHIN THE CONTEXT OF CURRENT NATURAL HERITAGE POLICIES

The facility that is planned violates the Master Plan for the Lakeshore Grounds, the City's Official Plan, and is not in keeping with the principles outlined in the Toronto and Region Terrestrial Natural Heritage System Strategy of the T.R.C.A.

A leaflet produced in partnership with the City describes the Lakeshore Grounds as "the jewel of the Lakeshore" and says:

"Aside from its recreational value, the land is important for its habitat conservation. The grounds contain over 1200 trees and houses many migrating birds, due to the shoreline location and nearby vegetation. Wetland creation projects enhance bird habitat conditions adding to the ecological significance of the park."

A report commissioned by the City in 2006 indicates that the Lakeshore Grounds are used by at least 160 different species of birds of which 121 are migrants, 51 breeders and there were 46 species of waterfowl.

Master Plan:

The "Goal, Design Principles and Site Management Guidelines" for the Lakeshore Grounds were adopted by the former Etobicoke Council on April 28 1997 and with amalgamation became the policy of the City of Toronto.

The stated goal is: “to conserve the heritage features, evoke historical land uses and restore ecological integrity to the site while providing a place that is distinctive, accessible and conducive to the public’s education, recreation and well-being”.

The woodlot where it is proposed to build the ice rink was once the tree nursery for the Lakeshore Psychiatric Hospital in the days when patients worked on the hospital farm and grounds. That history has been recognized elsewhere in the Grounds and CCFEW believes that the woodlot deserves protection as a heritage feature.

Under the heading “Public Recreation Principles” the Guidelines state:

“Parts of the former hospital grounds were specifically designed and constructed to provide a place for recreation. This use should be continued and expanded:

- * areas and facilities for active and passive recreation should be provided with the qualification that passive recreation facilities should dominate at this location
- * recreational facilities and areas should only be developed in a manner that is compatible with existing heritage and environmental features
- * public recreation should be provided in a manner that encourages multiple use of areas. Single purpose facilities which occupy large land areas should be discouraged at this specific site.
- * in recognition that this is a waterfront site, provide leisure facilities and services that are water dependent or related as top priority especially within the waterfront view shed area.”

CCFEW’s position is that an ice skating facility with lights and music is a single purpose facility that was not envisaged when these principles were approved. Traditional recreation in the Lakeshore Grounds has been walking, bird watching, nature study and enjoying views of the waterfront. The meadows are not cut and the areas where the grass is cut are not maintained as playing fields. There is a cricket pitch and a gazebo in the grassy circle called “The Amusement Grounds” which is designated “Heritage Conservation” in the Master Plan. Since 1996 the Grounds have evolved and matured beyond the most optimistic expectations of the original planners into a unique waterfront public resource conveniently accessible by public transportation and the Waterfront Trail.

School children, many of whom have never experienced the joy of running through woods and watching garter snakes, butterflies and beaver, are regularly brought to Col. Sam Smith by their teachers. Birdwatchers and nature lovers in their hundreds, many from far beyond the Toronto area have discovered this rare naturalized public space on our waterfront. It truly provides them with re-creation.

Official Plan:

On April 12, 13 and 14, 2005 Toronto City Council adopted modifications to the City's Official Plan with respect to "The Natural Heritage System and Inventory" which read as follows:

"When development is proposed on or near lands shown as part of the natural heritage system, the proposed development's impact on the system is to be evaluated and an impact study may be required."

There has been no such impact study done for the ice skating track.

Terrestrial Natural Heritage System:

The TRCA's Etobicoke-Mimico Watersheds Coalition has identified opportunities at the Lakeshore Grounds to improve the area's Terrestrial Natural Heritage System and has recently included the Grounds in the planning and implementation of their Etobicoke-Mimico Creeks Watershed Strategy.

The TRCA is working to protect the land base within the Greater Toronto Area (GTA) where there is existing and potential natural cover. A target has been set for restoration of cover by 2100. The present level of cover within the GTA is 17% of the land base with the target for 2100 being 30%.

Within the urbanized areas of the Etobicoke and Mimico Creek Valleys the present cover is 6% and 3% respectively and the target levels are 12% and 8%. The Lakeshore Grounds are mid-way between these two creek valleys and represent a significant amount of cover with the potential for that to be increased. CCFEW does not believe that the woodlot will survive the impact of construction and use of an artificial ice track.

In 1997 funds from the Ministry of Environment and Energy enabled CCFEW to produce a report entitled "Toward the Ecological Restoration of South Etobicoke". One of the recommendations made was that North Creek, which is located just east of the proposed skating track and which flows into the wetland systems of the park, be restored. This report anticipated and complements the approach taken in Terrestrial Natural Heritage System. Drainage from an artificial ice track will do nothing to help restore this creek to its original state. The track itself is to be 12,000 m² (square metres) and there will need to be walkways and access points for users and ice maintenance equipment. A preliminary plan by the City for the facility shows room for additional future expansion.

2. THERE HAS BEEN NO EVALUATION OF THE ENVIRONMENTAL IMPACT OF THIS PROPOSAL ON THE WOODLOT WHERE THE ARTIFICIAL RINK IS TO BE LOCATED OR ON THE PARK IN GENERAL.

The woodlot where the skating track is to be located was originally the tree nursery for the former Psychiatric Hospital. The Hospital closed 30 years ago and farming by the patients ceased many years before that; so there has been considerable growth of seedlings and underbrush.

As we have shown, the 1996 Moore George report which first suggested the skating track dismissed the woodlot as an appropriate site. CCFEW agrees with that and the evolution of the Grounds as a maturing naturalized area reinforces the wisdom of that position.

Last spring a Cooper's Hawk nested in one of the trees adjacent to the proposed site of the skating track. As a species, these hawks began to decline in numbers fifty years ago but have now begun to recover with the declining use of pesticides. Their wingspan is about 90 cm and their nests are 60 – 70 cm across. They return to the same nesting sites each year. The hawk's presence in the woodlot indicates the height and maturity of the trees.

In 2004 Toronto enacted a Private Tree By-law to protect trees on private property. It regulates injury or removal of privately owned trees which measure 30 cm or more in diameter when measured at a height of 1.4 metres about ground level. The majority of trees to be affected by the skating trail are more than 30 cm in diameter.

The ground in the woodlot slopes from north to south and west to east with undulations throughout the area. There is at least a metre in difference between the grade at the north and that at the south. The ground will need to be levelled to accommodate the track and City staff have acknowledged this and indicated that cutting and filling will be required in many places. The City's Tree Protection policy points out that roots may extend 2-3 times the width of the canopy and that removal of a large portion of its roots may lead to the decline and eventual death of the tree. The policy establishes a Tree Protection Zone of 2.4 m from the trunk for a tree 30-40 cm in diameter. Private citizens are also required to have a valid arborist's report completed before applying for a permit to allow construction activity that might affect the health of a tree.

We recognize that the City has exempted itself from the provisions of the Tree By-law but CCFEW believes that the City should always be held to the same standard of tree protection as it requires of its residents.

Underbrush in the woodlot has traditionally provided excellent bird habitat. CCFEW organises regular public bird walks in the park and the woodlot was a favourite viewing site. Recently the City has been clearing underbrush and cutting the lower branches of the trees citing public safety as the reason. We fear that the remote location of the track and the absence of other active recreation facilities in the area will inevitably lead to

greater concerns about security. This will result in attempts to open up the area even further by removing trees and underbrush. The environmental impact of either removing underbrush or installing permanent lighting and a sound system have not been taken into account.

The City has provided no information about storm water management at the site or how they will dispose of the melted ice. The nearby creek is part of a storm sewer system. There is another major storm sewer further west on the Grounds and in December 1980 in approving the construction of Col. Sam Smith Park the Environmental Assessment Board required the Metro TRCA to construct a settling basin with an oil retention and recovery system incorporated into the design. CCFEW believes that the City should be required to provide similar protection before allowing run-off from the artificial ice track into the creek.

3. THERE HAS BEEN NO ADEQUATE EVALUATION OF THE NEED FOR THIS FACILITY OR OF ALTERNATIVES TO THE CURRENT PLAN

It was in the 1996 report by consultants Moore George that the idea of a “pleasure skating rink” in the Lakeshore Grounds was first proposed. The report does not describe it as either natural or artificial ice but many participants in the consultations at that time presumed it would be of natural ice. The “Goal, Design Principles and Site Management Guidelines” adopted by Etobicoke Council in 1997 contained general “Public Recreation Principles” as outlined in Section 1 of this request but did not mention any kind of skating facility.

The next time any reference to a skating rink in Col. Sam Smith Park occurred was in June 2005 when Etobicoke-York Community Council recommended that a developer seeking an Official Plan and Zoning Amendment to build 1640 residential units and 36,000 sq. feet of commercial/retail space on Humber Bay Shores (5 km east of the park) be granted approval and that one of the conditions to that approval be a payment of \$500,000 “towards the implementation of the proposed outdoor ice skating oval facility in Col. Sam Smith Park.

There was no consultation whatsoever with the local community regarding this recommendation or about the inclusion of additional funds in the capital budget.

In 2004 there was extensive consultation with the entire Lakeshore community as the City prepared a “South Etobicoke Community Services and Facilities Study”. This was led by the IBI Group in conjunction with the City and Lakeshore Area Multi-Services Project, a local community health centre. That report confirmed the area’s recreation priority to be a community centre which had been recommended since 1999. There was no mention throughout the preparation of the report or in the report itself of the need for a skating rink and one of the report’s conclusions was that the area had no need for additional indoor ice facilities.

As a follow-up to the Facilities Report the City did an inventory of Outdoor Artificial Ice Facilities and the provision rate in the pre-amalgamation municipalities. This found that Etobicoke had 10 outdoor pleasure pads, 1 per 34,000 residents as compared to 1 per 600,000 residents in Scarborough and 1 per 300,000 in North York. The report concluded that “for any additional or replacement outdoor artificial ice facilities the City should consider low provision areas a priority”. There are already two outdoor artificial rinks in the Etobicoke-Lakeshore area.

CCFEW and many others have consistently asked the City for a consultation about the need for the Col. Sam Smith skating track and have been told that the decision was made in 1996 and is not open for discussion. There have been two public presentations showing designs for the proposed track and at each the question of need has been raised repeatedly by local residents.

The proponent has not proved a demonstrable public need for this kind of facility or that it be located in an environmentally significant park.

4. THE PROVINCE HAS AN HISTORIC AND ONGOING CONNECTION AND INVOLVEMENT IN THE LAKESHORE GROUNDS

In 1980 a public hearing was held by the Environmental Assessment Board “concerning an undertaking proposed by the Metropolitan Toronto and Region Conservation Authority to create a regional waterfront park at the Col. Samuel Bois Smith Waterfront area which would take advantage of a unique waterfront setting.” After three months of hearings the undertaking and required lakefilling were approved with modifications and conditions.

In 1979 the Ministry of Health declared the Lakeshore Psychiatric Hospital surplus to its needs and so an additional 64 acres of prime waterfront land was available to augment the area to be created by lakefill.

It took ten years before a final land use plan was approved for the entire area.

The provincial government has been an active partner in the realization of the vision that emerged in the 1990’s with respect to The Lakeshore Grounds and the creation of a Master Plan.

As the owner of the hospital property the province provided leadership through the Ontario Realty Corporation and the Management Board Secretariat in negotiating land exchanges and funding renovations to buildings in the Grounds as well as modifications to the shoreline that created this unique natural park on the Toronto waterfront. There was meaningful public consultation and community partnership throughout this entire process. Citizens Concerned for the Future of the Etobicoke Waterfront was at the table during the planning discussions. CCFEW has raised funds over the last ten years for

park signage, bird viewing platforms and plant material. We participate in clean-up and planting days and organise regular public bird walks. This summer in partnership with City staff we taught our members about invasive plants and held a weed pulling evening in the park!

In an order dated March 30, 1993 the Minister of Environment gave three reasons for exempting the Conservation Authority's proposed modifications to Col. Sam Smith Park from the EA Act:

- “the proposed amendments to the waterfront park plan will enhance the environment by creating aquatic habitat and providing safe public access
- the proposed wetland would be less costly (than a previously planned swimming lake) and would provide aquatic terrestrial habitat as part of regenerating the shoreline
- the (Conservation) Authority has consulted with the public in developing the proposed amendments and is confident that such amendments will not result in any concerns”

These reasons clearly indicate the Ministry's commitment to a naturalized rather than an active recreational park. Equally important, they also reflect the Ministry's confidence in the process followed and the decisions made by the TRCA. There were no objections from stakeholders or the public to the proposed EA modifications.

Unfortunately this collaborative approach has ceased to occur over recent years and there is now a plan for a skating facility which will unalterably change the nature of the park from a passive naturalized oasis to an active recreational area. This is a clear contravention of the spirit of the Master Plan.

The City of Toronto has not met the requirements of the Environmental Assessment Act and has failed to take seriously the need for public consultation as well as the environmental implications of their proposed development.

In view of the significant unresolved concerns regarding the rationale for this decision, the environmental impacts of the decision and the incompatibility of the proposed use with the planned and historical uses of the Lakeshore Grounds, CCFEW regrets that we have no other option but to ask for provincial intervention. The proponent has not adequately proven a demonstrable public need for an artificial ice skating track in Col. Sam Smith Park. Therefore CCFEW believes that it is incumbent on the Minister of the Environment to pass a project-specific regulation designating the planned skating track in Col. Sam Smith Park in the City of Toronto as an undertaking to which the Environmental Assessment Act applies.

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