SUBJECT: Application for an Amendment to a Ministry of Environment Certificate of Approval (5328-4XUNBE) for Expansion to a Waste Disposal Site, Ministry of Environment Reference 4438-7JZKPG, 144 - 190 South Service Road, Stoney Creek (PED09184) (Ward 10)

RECOMMENDATION:

That the Environmental Assessment and Approvals Branch of the Ontario Ministry of Environment (MOE) be advised that should the Ministry consider approving Application CA-09-001, RPR Environmental, Applicant, for an Amendment to a Certificate of Approval (5328-4XUNBE), MOE Reference 4438-7JZKPG, to permit Unit 170 to be used for the storage of waste, for the lands located at 144 - 190 South Service Road, Stoney Creek, as shown on Appendix “A” to Report PED09184, that the City of Hamilton requests:

(a) That, if approved, the Amendment to the Certificate of Approval include the following requirements:

(i) That prior to receiving any waste materials in Unit 170, the proponent obtain a building permit from the Building Services Division for the proposed conversion of Unit 170 to an F1 Industrial Occupancy, and for the installation of door openings in the fire separation walls between Units 162 and 164, and between Units 168 and 170, to the satisfaction of the Director, Building Services, City of Hamilton.

(ii) That prior to receiving any waste materials in Unit 170, a revised Part 4 Building Audit shall be prepared and submitted, to the satisfaction of Hamilton Emergency Services – Fire, to confirm that the existing and proposed storage of flammable and combustible liquids is in full compliance with Part 4 of the 2007 Ontario Fire Code Compendium. The Audit shall be completed by a Professional Engineer or Architect, and must include all aspects of Part 4, including the transfer and loading/unloading of the flammable and combustible liquids to/from the
SUBJECT: Application for an Amendment to a Ministry of Environment Certificate of Approval (5328-4XUNBE) for Expansion to a Waste Disposal Site, Ministry of Environment Reference 4438-7JZKPG, 144 - 190 South Service Road, Stoney Creek (PED09184) (Ward 10) - Page 2 of 11

tanker vehicles. It shall also include spill control measures (i.e. expansion of existing berms and covering of floor drains in new floor areas to be included in the facility, and ventilation measures, including the design of the proposed fume hoods).

(iii) That the Certificate of Approval limit the maximum daily transfer of waste to a maximum rate of 250 tonnes per day, and a maximum storage of 500 drums, or 22,500 gallons, at any one time, of which the maximum amount of hazardous waste stored shall be 11,500 gallons.

(iv) That an inventory of waste types stored on site should be updated daily, and be provided to the Ministry of the Environment.

(v) That waste shall only be permitted to be stored within Units 164 to 170 of the building at 144 to 190 South Service Road.

(vi) That the Certificate of Approval include strict requirements for excellent on-site housekeeping practices for the approved classes of waste to minimize adverse effects to the surrounding uses.

(vii) That the proponent implement spills prevention on site, and containment measures be included in the Certificate of Approval. That the Contingency Plans for spills on site and clean-up procedures are covered under the Certificate of Approval, and that the City’s Spills number (905) 540-5188 is included in the company’s on-site Contingency Plan. The Contingency Plan shall also deal with run-off water from any fire fighting activity from the operation. Further, that a copy of the Contingency Plan be forwarded to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department, City of Hamilton, and be submitted to the satisfaction of the Ministry of the Environment.

(viii) That the Certificate of Approval includes requirements for strict adherence to all department/agency requirements, including those of the Ministry of Environment, Ministry of Labour, and Hamilton Emergency Services - Fire.

(ix) That an internal Emergency Response Plan be prepared and sent to Hamilton Emergency Services - Fire for review and comment.

(x) That a current copy of the Emergency Response Plan, Spills Containment and Contingency Plan, daily product inventory list, including product quantities and exact location within all facilities, along with the applicable MSDS sheets, be externally stored in a secured location on site in a manner such that all noted documents are readily available to Hamilton Emergency Services - Fire, 24 hours a day, 7 days a week, 365 days a year.
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(xii) That the proponent be required to provide financial assurance to the Ministry of Environment to cover final clean-up of the site, following the cessation of use.

(xii) That a Ministry of Environment staff person be identified to the City as the contact for all issues and complaints regarding the subject property.

(b) That a copy of Report PED09184 be forwarded to the Environmental Assessment and Approvals Branch of the Ministry of Environment for their consideration.

(c) That the Environmental Assessment and Approvals Branch of the Ministry of Environment be requested to forward a copy of its final decision respecting the Certificate of Approval to the Clerk, City of Hamilton.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applicant, RPR Environmental, has applied to the Ministry of Environment (MOE) for an Amendment to an existing Certificate of Approval for a Waste Disposal Site (transfer station) to permit an additional unit (Unit 170) within their existing building to be used for the storage of waste. The type of waste to be stored on site includes solid and liquid industrial hazardous and non-hazardous wastes. RPR Environmental currently occupies Units 162 to 168 of the industrial building located at 144 - 190 South Service Road (see Appendix “B”). Hazardous materials are stored in Units 164 to 166, and non-hazardous materials are stored in Unit 168. This application seeks to reconfigure the current operations to permit the storage of waste in the adjacent Unit 170, in addition to the current storage area (see Appendix “C”). There is no proposed increase in the volume of waste to be stored on site, or change in the types of waste already stored on site, which will remain at a maximum storage of 22,500 gallons, of which a maximum of 11,500 gallons may be for the storage of hazardous waste (see Recommendation (a) (iii)).

The Ministry of the Environment requests affected municipalities to provide comments on new and amended Certificate of Approval applications. The MOE then makes a decision on the application, on the basis of the comments received, in addition to various technical and environmental considerations. Comments from the City of
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Hamilton on Certificate of Approval applications are forwarded to the MOE. Based on the comments received from an internal circulation of this application, and the analysis undertaken, this MOE application for a Certificate of Approval is considered acceptable, subject to a number of conditions being addressed in the amended Certificate, as will be further discussed below.

BACKGROUND:

What is a Certificate of Approval?

A “Certificate of Approval” pursuant to Part V of the Environmental Protection Act is a legally binding document, through which an individual, company or municipality is permitted, by the Ontario Ministry of Environment, to undertake an activity related to the management of waste.

Each Certificate of Approval is drafted to address the site-specific considerations relevant to the proposal, and contains enforceable requirements that ensure environmental and health protection, compliance with legislation and policy requirements. The Certificate of Approval stipulates the types of wastes that can be managed at the facility, and contains “conditions” that describe the manner in which the facility is to be operated. Failure to comply with any of the Certificate’s conditions constitutes a violation of the Environmental Protection Act, and is grounds for enforcement through the Provincial Offences Act.

Interim Control By-laws 08-104 and 09-061

Interim Control By-law 08-104, which had the effect of prohibiting the establishment of any new private waste disposal site or the expansion of any existing private waste disposal site in any industrial zones in the City, was passed on April 23, 2008. The Interim Control By-law was enacted in order to allow the City to conduct a planning study in respect of the land use policies for the location of private waste disposal sites in the City. On April 1, 2009, Council passed By-law 09-061, which extended the Interim Control By-law for one additional year, but the extension applies only to Industrial zoned lands in the former City of Hamilton. Therefore, the subject lands, being located in the former City of Stoney Creek, are no longer subject to the Interim Control By-law.

New Official Plan Policies and Zoning Regulations Regarding Private Waste Disposal Sites

At the Economic Development and Planning Committee meeting of June 2, 2009, Committee approved new Official Plan policies and Zoning By-law regulations regarding the location of private waste disposal sites in the City of Hamilton. These new policies and regulations are based on the findings of the Planning Study of Private Waste Disposal Sites, which had been completed by Jacques Whitford Limited in 2008. The implementing Official Plan and Zoning By-law Amendments, which were passed by
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Council on June 10, 2009, designate the subject lands at 144 - 190 South Service Road with site-specific provisions to recognize the waste transfer station on the site. The wording of the site-specific provision in the Official Plan and Zoning By-law permits a waste transfer facility and hazardous waste management facility on the lands known as 144 - 190 South Service Road, within Units 162 to 178. Therefore, this proposal to include Unit 170 for waste storage complies with the site-specific provision in the Official Plan and Zoning By-law Amendments approved by Council. Staff notes that the new Official Plan policies and Zoning regulations have been passed by Council, but are not yet final and binding as they are currently within the prescribed appeal period under the Planning Act.

ANALYSIS/RATIONALE:

Site Operations

RPR Environmental is a waste transfer operation which specializes in the transfer of organic and inorganic hazardous and non-hazardous wastes. RPR Environmental picks up waste from clients across Ontario, in the industrial, commercial, and institutional sectors. The waste is transferred to the site at 144 - 190 South Service Road, where it is stored for a maximum of 90 days. No processing of waste takes place at the subject property. The waste is stored on site in contained drums until it is transferred to its final disposal site, elsewhere in Ontario or the United States. The site operates 24 hours a day, and 7 days a week.

Currently, waste is only stored in Units 164, 166 and 168 (see Appendix “B”). Units 164 to 166 contain hazardous waste, and Unit 168 contains non-hazardous wastes. The current proposal seeks to include Unit 170, which is already leased by the applicant, as additional storage space. If approved, the waste storage within the building would be reconfigured, so that non-hazardous wastes would be stored within Units 164 to 166, and hazardous wastes would be stored within Units 168 to 170. The hazardous wastes would be separated into inorganic (Unit 168) and organic (Unit 170), as shown on Appendix “C”.

It is noted that the applicant also leases Unit 162, which is used for office space. In addition, the applicant has noted that they may have future plans to expand their operation into additional units within the building (Units 172 to 178). As such, the site-specific provisions included in the new Official Plan policies and Zoning By-law regulations recognize that a hazardous waste management facility may be permitted within Units 162 to 178 of the building. However, any proposal to store waste within additional units within the building, or to increase the amount of hazardous or non-hazardous waste stored or transferred on the site, would require an amendment to the Certificate of Approval (Recommendation (a) (v)).
Stored Volume

The maximum amount of waste which may be transferred at this facility in any 24-hour period is 250 tonnes. The maximum amount of waste that may be stored at any one time is 500 drums, or 22,500 gallons. No greater than 11,500 gallons may be for the storage of hazardous waste (Recommendation (a) (iii)). As stated above, there is no proposed increase in amount of waste transferred or in storage capacity with this application.

Zoning

The subject lands are zoned Preferred Industrial “MP-12” Zone in the City of Stoney Creek Zoning By-law. The subject lands were rezoned in 2004 to permit a waste transfer station on the lands. As mentioned above in the Background section, within the Official Plan and Zoning By-law Amendments which were passed by Council on June 10, 2009, respecting private waste disposal facilities, the subject lands at 144 - 190 South Service Road have been recognized with site-specific provisions to recognize the waste management facility on the site. The wording of the site-specific provision in the Official Plan and Zoning By-law permits a waste transfer facility and hazardous waste management facility on the lands known as 144 - 190 South Service Road, within Units 162 to 178. Therefore, this proposal to include Unit 170 for waste storage complies with the site-specific provision in the Official Plan and Zoning By-law Amendments approved by Council (which are currently within the prescribed appeal period).

Conditions of Approval

Based on circulation of this application to other City departments and the analysis undertaken, this MOE application for a Certificate of Approval is considered acceptable, subject to a number of conditions being addressed in the amended Certificate. Most of these recommended conditions are addressed in the Relevant Consultation section below. In addition, standard conditions of approval are also recommended, relating to financial assurances to the MOE for final site clean-up, and identification of an MOE contact for all issues related to the operation (Recommendations (a) (xi) and (xii)).

**ALTERNATIVES FOR CONSIDERATION:**

The City of Hamilton is not the approval authority for Certificate of Approval applications, but has been requested to submit comments on this application to the MOE. The MOE will consider the City’s comments in making a decision on the application. The following alternatives are available to the City in providing comments to the MOE.

1. **Request MOE to Deny the Application**

   The City could request that the MOE deny the Certificate of Approval application.
2. Request MOE to Incorporate the City’s Conditions

The City can request that certain conditions be included in the Certificate of Approval, if approved. The circulation of the application to City Departments did not result in any objections to the proposal. Staff has identified requirements that are to be addressed through the Certificate of Approval, as specified in the Recommendation section of this report.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - N/A.

Staffing - N/A.

Legal - Certificate of Approval applications are processed by the Ontario Ministry of the Environment under the authority of the Environmental Protection Act. The City of Hamilton has been formally requested to provide comments to the Ministry on this specific application.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes that via the Certificate of Approval process, the applicant will demonstrate consistency with the sustainability of healthy, liveable, and safe communities, as outlined in Policy 1.1.1 (c) of the PPS.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. The proposal to include Unit 170 for waste storage is permitted under this designation.

Further, within the new Official Plan policies approved by Council on June 10, 2009 (and currently within the prescribed appeal period), hazardous waste management facilities are permitted only by amendment to the plan. The subject lands have, therefore, been designated with a site-specific provision in the Stoney Creek Official Plan permitting a waste transfer station and hazardous waste management facility within Units 162 to 178 of the building. Therefore, the proposed MOE Certificate of Approval would conform with the new policies which will be amended into the Hamilton-Wentworth Official Plan when they come into force and effect.
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City of Stoney Creek Official Plan

The subject lands are designated “Industrial - Business Park” in the City of Stoney Creek Official Plan. The primary uses permitted in this designation are manufacturing, processing of raw materials or goods, repairing and servicing operations, warehousing and storage, and transportation terminals. The proposed waste transfer station is permitted under this designation.

Further, within the new Official Plan policies approved by Council on June 10, 2009 (and currently within the prescribed appeal period), the subject lands have been designated with a site-specific provision permitting a waste transfer station and hazardous waste management facility within Units 162 to 178 of the building. Therefore, the proposed amendment to the MOE Certificate of Approval to allow the expansion of the existing waste transfer facility into Unit 170 would conform with the new policies which will be amended into the Stoney Creek Official Plan when they come into force and effect.

Stoney Creek Zoning By-law

As noted above, the subject lands are zoned Preferred Industrial “MP-12” Zone in the City of Stoney Creek Zoning By-law. This site-specific zone permits a waste transfer station on the subject lands.

Under the new Zoning regulations regarding the location of private waste disposal sites in the City of Hamilton (approved by Council on June 10, 2009 and currently within the prescribed appeal period), a site-specific provision has been included to permit a waste transfer facility and hazardous waste management facility within Units 162 to 178 of the subject lands. This proposal to allow waste storage within Unit 170 would, therefore, be permitted in the Stoney Creek Zoning By-law.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Traffic Engineering and Operations Division, Public Works Department.

The Health Protection Branch, Public Health Services, has no objection to the proposal, provided that certain requirements are included in the amended Certificate of Approval. These requirements include the following: excellent on-site housekeeping practices for the approved classes of waste, including storage, segregation and labelling; adequate spill response/fire control measures should be in effect at all times, with trained staff and outside emergency staff; and strict adherence to all City of Hamilton Department and other agency requirements, including City of Hamilton Fire Services, MOE, and the Ministry of Labour, as identified in Recommendations (a) (vi), (vii) and (viii).
The Waste Management Division, Public Works Department, has commented that this proposal will have no impact on the City of Hamilton’s Solid Waste Management Master Plan (SWMMP), and that the proposal will complement the SWMMP in that it will predominantly provide service to the industrial, commercial, and institutional sectors.

The Water and Wastewater Division, Public Works Department, has no objection to the proposed amendment, subject to spill prevention and containment measures being adequately addressed. Water and Wastewater staff spoke to the proponent regarding this issue. The proponent indicated that spill prevention and containment measures would be dealt with through the Certificate of Approval, and that all solid and liquid waste would be appropriately dealt with through the proper MOE guidelines. The proponent also indicated that contingency plans for spills on site and clean-up procedures are covered under the company’s Contingency Plan, and that the City’s Spills number 905-540-5188 would be included in the company’s on-site Contingency Plan. The Contingency Plan should also deal with run-off water from any fire fighting activity at the facility. A copy of this Plan should be sent to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department. The proponent indicated that they are in agreement with the above items, which have been included as Recommendation (a) (vii). Water and Wastewater staff also notes that any wastewater discharged from this site shall comply with Sewer Use By-law 04-150, and that the applicant has been made aware of this requirement.

Hamilton Emergency Services, Fire Prevention Division, has no objection to the application provided that the following requirements are met:

- The applicant must obtain a building permit from the City of Hamilton for the proposed conversion of Unit 170 to an F1 Industrial Occupancy for the storage of hazardous waste, and for the installation of a proposed door opening in the existing fire separation walls between Units 162 and 164, and between Units 168 and 170. Staff notes that the proposed total building area of the entire facility may now require the installation of a fire alarm system, sprinkler system, or both, which must be designed by a Professional Engineer or Architect and included in the required building permit. (Recommendation (a) (i))

- A revised Part 4 Building Audit shall be prepared and submitted, to the satisfaction of Hamilton Emergency Services – Fire, to confirm that the existing and proposed storage of flammable and combustible liquids is in full compliance with Part 4 of the 2007 Ontario Fire Code Compendium. The Audit shall be completed by a Professional Engineer or Architect, and must include all aspects of Part 4, including the transfer and loading/unloading of the flammable and combustible liquids to/from the tanker vehicles. It shall also include spill control measures (i.e. expansion of existing berms and covering of floor drains in new floor areas to be included in the facility, and ventilation measures, including the design of the proposed fume hoods). The revised Part 4 Audit must address changes that have occurred within the facility since the previous Part 4 Audit was completed in 2001. (Recommendation (a) (ii))
The Certificate of Approval should limit the maximum daily transfer of waste to a maximum rate of 250 tonnes per day, and a maximum storage of 500 drums or equivalent at any one time. (Recommendation (a) (iii))

An inventory of waste types stored on site should be updated daily and be provided to the MOE. (Recommendation (a) (iv))

That the proponent implement spills prevention on site, and containment measures be included in the Certificate of Approval. That the Contingency Plans for spills on site and clean-up procedures are covered under the Certificate of Approval, and that the City’s Spills number (905) 540-5188 is included in the company’s on-site Contingency Plan. The Contingency Plan shall also deal with run-off water from any fire fighting activity from the operation. Further, that a copy of the Contingency Plan be forwarded to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department, City of Hamilton, and be submitted to the satisfaction of the Ministry of the Environment. (Recommendation (a) (vii))

The Certificate of Approval should require strict adherence to all department/agency requirements, including those of the Ministry of Environment, Ministry of Labour, and Hamilton Emergency Services - Fire. (Recommendation (a) (viii))

That an internal Emergency Response Plan be prepared and sent to Hamilton Emergency Services - Fire for review and comment. (Recommendation (a) (ix))

That a current copy of the Emergency Response Plan, Spills Containment and Contingency Plan, daily product inventory list, including product quantities and exact location within all facilities, along with the applicable MSDS sheets, be externally stored in a secured location on site in a manner such that all noted documents are readily available to Hamilton Emergency Services - Fire, 24 hours a day, 7 days a week, 365 days a year. (Recommendation (a) (x))

Public Consultation

Public notification/consultation requirements for Certificate of Approval applications are regulated by the Environmental Protection Act, and administered by the MOE. Upon receipt of the application, the MOE normally requires the applicant to circulate an Information Notice to abutting property owners. The Notice provides a description of the proposed changes to the operation. The MOE will also post a Notice of the proposal on the Environmental Registry (website) for a 30-day comment period. The MOE posted this proposal on the Environmental Registry on November 7, 2008. The MOE has been notified that the City of Hamilton would not meet the commenting deadline for this application, and has granted the City an extension to the deadline in order to ensure that the City’s comments are received.
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes □ No
Community well-being is safeguarded by requiring that the storage and handling of waste be subject to Ministry of the Environment approvals, ensuring appropriate safeguards are in place to protect the community.

Environmental Well-Being is enhanced. ☑ Yes □ No
Appropriate safeguards will be put in place through the MOE Certificate of Approval to address spills on site, thereby protecting the surrounding environment in case of spill or accident.

Economic Well-Being is enhanced. ☑ Yes □ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes □ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes ☑ No

:HT

Attachs. (3)
Location Map

File Name/Number:
CA-09-001

Date:
June 8, 2009

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
HT/NB

Subject Property

144-190 South Service Road, Stoney Creek

Ward 10 Key Map

N.T.S.