TO: Chair and Members
   Economic Development and Planning Committee

WARD(S) AFFECTED: WARD 11

COMMITTEE DATE: July 5, 2010

SUBJECT/REPORT NO:
Application for Ministry of Environment Certificate of Approval for a Waste Disposal Site, Ministry of Environment Reference #3348-7ZQQBH, 900 Nebo Road (Glanbrook) (PED10139) (Ward 11)

SUBMITTED BY:
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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-10-002, CountryWide Recycling Inc, Applicant, for a Certificate of Approval for a Waste Disposal Site, MOE Reference #3348-7ZQQBH, to permit a waste transfer/processing facility on the lands located at 900 Nebo Road (Glanbrook), as shown on Appendix “A” to Report PED10139, that the City of Hamilton requests:

(a) That, if approved, the Certificate of Approval includes the following requirements:

   (i) That prior to receiving any waste materials on site, the applicant obtains Site Plan approval from the City’s Planning Division, to the satisfaction of the Manager, Development Planning.

   (ii) That prior to receiving any waste materials on site, the applicant obtains a Building Permit from the Building Services Division for the new facility, to the satisfaction of the Director, Building Services Division.
(iii) That the Certificate of Approval limit the daily transfer/processing of waste to a maximum of 1,600 tonnes per day, and a maximum storage of 3,200 tonnes of waste at any one time.

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

(v) That the waste streams be limited to solid non-hazardous waste, and that no other waste, including used tires or hazardous waste, be accepted at this facility.

(vi) That the proponent be aware of the reduced load restrictions on Nebo Road from March 1 to April 30, where no load on any vehicle shall exceed 5,000 Kg per axle.

(vii) That a waste screening and testing program be developed and implemented to deal with unanticipated received materials.

(viii) That an effective odour/dust/noise mitigation control plan for day-to-day activities be implemented.

(ix) That excellent on site housekeeping practices be implemented for overall general maintenance, including litter and vermin control.

(x) That the proponent shall prepare and submit a Fire Safety Plan (typed original and 2 copies), acceptable to the Chief Fire Official, in conformance with Subsection 2.8.2 of the Ontario Fire Code.

(xi) That the proposal shall comply with all applicable sections of Subsection 3.3.2. “Indoor General Storage” of the Ontario Fire Code.

(xii) That the proponent implements 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. 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. That the spill prevention and contingency plan be submitted, to the satisfaction of the Ministry of the Environment.
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Executive Summary

The applicant, CountryWide Recycling Inc., has applied to the Ministry of Environment (MOE) for a Certificate of Approval for a Waste Disposal Site to permit a new waste transfer/processing station on the lands at 900 Nebo Road. The type of waste to be received on site will be mixed, solid non-hazardous waste from new construction, renovation, and demolition projects. A maximum of 1,600 tonnes of waste would be received per day at full operation, and 800 tonnes of waste going to final disposal per day. A maximum of 3,200 tonnes of waste would be stored on site at any time. All loading activities would be accommodated within a proposed 6,160.68 square metre (GFA) waste processing building, and waste storage would be accommodated in the processing building as well as in covered bins and/or trailers on the site.
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 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 included in the Certificate, as will be further discussed below.

Alternatives for Consideration - See Page 13.

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**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.

**HISTORICAL BACKGROUND (Chronology of events)**

**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.
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 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 Council on June 10, 2009, permit waste transfer stations as-of-right if they are located a minimum of 300 metres from any residentially or institutionally zoned lands. The subject lands are not located within 300 metres of any lands zoned for residential or institutional purposes and, therefore, conform with the new Official Plan policies and comply with the Zoning regulations.

POLICY IMPLICATIONS

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” in 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. Therefore, the proposal conforms with the Hamilton-Wentworth Official Plan.

Glanbrook Official Plan

The subject lands are designated “North Glanbrook Industrial - Business Park” in the Glanbrook Official Plan. The primary uses permitted in this designation are industrial and business uses, including manufacturing, assembling, repair and service operations, processing and storage of raw materials and goods, warehouse, distribution and wholesale operations, research and development facilities, and business offices. Policy B.2.5.1 states that manufacturing and processing operations shall not be obnoxious by reason of the emission of odour, dust, smoke, gas, fumes, particulate matter, noise, and/or vibration. To address this concern, staff has recommended that the proponent be required to practice excellent on site housekeeping practices for litter and vermin.
control, and to prepare an effective mitigation control plan for odour, dust, and noise from the day-to-day operations of the facility. In addition, as noted above, the proposal conforms with the new Official Plan policies adopted by Council on June 10, 2009, regarding private waste facilities. Therefore, the proposal conforms with the Glanbrook Official Plan.

**Glanbrook Zoning By-law No. 464**

The subject lands are zoned Prestige Business/Industrial “M1” Zone and General Industrial “M2” Zone in Glanbrook Zoning By-law No. 464. Under the new Official Plan policies and Zoning regulations regarding the location of private waste disposal sites in the City of Hamilton, the proposed use is considered a “Waste Processing Facility”, which is permitted as-of-right in both the “M1” and “M2” zones, provided that it is located a minimum of 300 metres from residentially or institutionally zoned lands. In addition, outdoor storage is prohibited on the portion of the lands zoned “M1”. Therefore, as the subject lands are not within 300 metres of lands zoned for residential or institutional purposes, and no outdoor storage has been identified on the Site Plan, the proposal is permitted in the Glanbrook Zoning By-law.

**Hamilton Zoning By-law No. 05-200**

On May 26, 2010, Council passed By-law No. 10-128 to incorporate Industrial Zones into Zoning By-law No. 05-200. The last day to appeal the By-law was June 24, 2010. The subject lands are zoned Prestige Business Park (M3) Zone, which was applied to the entire, newly named, “Red Hill Business Park”. Although waste processing facilities are no longer permitted ‘as-of-right’, this location has a Special Exemption 354, which permits a “Waste Processing Facility”.

**New Urban Hamilton Official Plan**

The subject lands are designated “Employment Areas - Business Park” on Schedule “E-1” - Urban Land Use Designations in the new Urban Hamilton Official Plan. The primary permitted uses include waste processing facilities and waste transfer facilities. The following policies are applicable to waste management facilities:

“Waste Management Facilities - General Policies

5.3.6 New waste management facilities shall be evaluated on the basis of the following criteria:

(a) Compatibility between existing sensitive land uses and the proposed waste management facility;
(b) Protection of public health and safety;

(c) Protection of the natural heritage system and cultural heritage resources;

(d) Capacity to effectively service prospective waste management facilities, including traffic management, adequate water and wastewater services and storm water management facilities; and,

(e) Appropriate site design, including: access, parking, building design and setbacks, outdoor storage, noise and odour abatement, and visual barrier requirements.

5.3.6.1 Waste management facilities, including expansions, shall be subject to the policies of Section F.1.19 - Complete Application Requirements and Formal Consultation.

5.3.6.2 The City shall provide comments to the Ontario Ministry of the Environment concerning applications for a Certificate of Approval for Waste Disposal site, as required under Part V of the Environmental Protection Act and/or any other applicable legislation for the approval of new waste management facilities or expansions or alterations to existing waste management facilities within the City of Hamilton.

5.3.6.3 Existing waste management facilities shall be recognized as permitted uses in the Zoning By-law.

5.3.6.4 Public waste management facilities that are subject to the Waste Management projects Regulation, O. Reg. 101/07, as amended, or those required to complete a Municipal Class Environmental Assessment under the Environmental Assessment Act shall not be subject to Policies E.5.3.7 and E.5.3.8 below.

5.3.6.5 Waste management facilities, including expansions, shall be subject to site plan control, in accordance with the policies in Section F.1.7 - Site Plan Control. This policy may be amended once the Green Energy Act is adopted.

Waste Processing Facilities and Waste Transfer Facilities

5.3.7 Waste processing facilities and waste transfer facilities, including expansions, shall be located a minimum of 300 metres from a sensitive
Since a “Waste Processing Facility” is a permitted use in the “Employment Areas - Business Park” designation; the proposed facility is not within 300 metres of the “Neighbourhoods”, “Institutional”, or “Commercial and Mixed-Use” designations; and, as the proposal is subject to Site Plan Control under which traffic management, servicing, storm water management, and site design will be addressed, the proposal conforms to the applicable policies of the Official Plan.

**RELEVANT CONSULTATION**

**The Public Works Department, Traffic Engineering and Operations Division**

“advises the applicant that the legal truck route is via Nebo Road to/from Rymal Road. No trucks should be accessing the site from the south unless they are picking up materials from a construction site in the immediate area. Further to this, we advise the applicant that Nebo Road currently has reduced load restrictions from March 1 to April 30 each year, where no load on any vehicle shall exceed 5,000 Kg per axle (Recommendation (a) (vi)).

The large number of trucks entering the site is quite significant and more than we had expected. We note the applicant has estimated 12 to 14 trucks per hour during a 16 hour operating day. It appears from the site plan that there is only stacking space available for the weight scale to accommodate approximately 3 large transports. We advise the Applicant that stacking will not be permitted on Nebo Road, and there must be sufficient space available on site for trucks to queue in the event that stacking spills out onto Nebo Road. Staff advises that this concern will be dealt with through the Site Plan Control process.”

**The Public Works Department, Water and Wastewater Division**, has indicated the following:

- A review of the application indicates that spill prevention and containment measures will be dealt with through the Certificate of Approval. Also, that any solid and liquid waste will be appropriately dealt with through the proper Ministry guidelines;

- 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 will be included on the company’s on site Contingency Plan;

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The application indicates that spray/misting systems are utilized to control dust. This has the potential to create leachate, therefore, a private sampling manhole will be installed for each sanitary sewer connection to the City sanitary sewer.

As it stands, the proposal put forth by CountryWide Recycling Inc. is acceptable from a sewer use standpoint, with the provision that wastewater discharged from this operation complies with Sewer Use By-law 04-50, as amended, and that they institute the above-noted three items.

The first two items will be addressed in Recommendation (a) (xii), and the third item will be addressed through the private sanitary service agreement required through Site Plan Control.

The Health Protection Branch, Public Health Services, makes the following recommendations:

- It has been indicated that 5,592m² of landscaped area will be provided for the total 46,473m² site area. This comprises approximately 12% of the total area. The landscaped area should be designed in a manner to minimize soil/dust kick-up. It is encouraged if this design feature could be incorporated for a greater total site area.

- Processing functions that grind/shred have appropriate and well mitigated engineering controls (i.e. water/spray misting systems). As indicated, certain processing will occur inside the building for potential dust/noise controls.

- The site is limited to processing/storing mixed, solid non-hazardous waste from construction, renovation, and demolition projects. A waste screening and testing program should be developed and implemented to deal with unanticipated hazardous materials (i.e. asbestos, etc.) received.

- Though odours are not expected to be problematic, odour control measures, for waste streams such as ground wood, should be evaluated for best mitigation practices (i.e. daily off site shipping, etc.).

- Adequate mitigation plans for dust, litter, odour, and noise be in place for day-to-day operations.

- The Storm Water Management Pond should be protected from any potential fugitive contamination sources (i.e. gasoline storage, etc.).

- Gravel areas and roadways be managed in a manner to minimize/negate dust creation.
• Restrictions for volumes processed and stored be evaluated by the Ministry of the Environment.

The above items are addressed in Recommendations (a) (iii), (v), (vii), (viii), (ix), and (xii).

**Hamilton Emergency Services, Fire Prevention Division**, has no objection to the Provisional Certificate of Approval for a Waste Disposal Site (transfer station) provided the following requirements are complied with:

• That all construction necessary to convert/renovate this premise for use as a Waste Disposal Site is to be carried out in accordance with the Ontario Building Code and under permit from the City of Hamilton Building Department.

• Prepare and submit a Fire Safety Plan (typed original and 2 copies) acceptable to the Chief Fire Official in conformance with Subsection 2.8.2 of the Ontario Fire Code.

• As the life safety systems/features of the anticipated construction of the waste transfer station building has yet to be determined, specific requirements cannot be identified as it relates to compliance with “indoor general storage”, as noted in the Ontario Fire Code. Compliance with all applicable Sections of Subsection 3.3.2. “Indoor General Storage” of the Ontario Fire Code is required. Attached is a copy of Subsection 3.3.2 of the Ontario Fire Code.

• That the proponent implements 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. 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. That the spill prevention and contingency plan be submitted, to the satisfaction of the Ministry of the Environment.

• That an internal Emergency Response Plan be prepared and sent to Hamilton Emergency Services-Fire for review and comments.

• 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 secure location (exterior lock box) 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.
The above items are addressed in Recommendations (a) (ii), (x), (xi), (xii), (xiii), and (xiv).

**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 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 March 8, 2010. 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.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

**Site Operations**

CountryWide Recycling Inc. (1778235 Ontario Inc.) has proposed a new waste transfer station on the lands located at 900 Nebo Road. The subject lands were purchased from the City of Hamilton in October, 2009, and the owner has submitted a Site Plan Control application to construct a new 6,160 square metre building for the transfer/processing operation. The facility has been designed to accept, store, handle, sort, process, and re-use the waste material. The processing will occur as separation and segregation of recyclable materials, grinding, and size reduction of waste wood products for use as boiler fuel and/or mulch and other non-recyclable materials for use as alternative daily landfill cover and/or biofuel feedstock. Appendix “B” illustrates the processing operations internal to the facility.

The Design and Operations Report, prepared by ASI Group, indicates that the proposed transfer/processing station will receive waste material from construction and (clean) demolition projects from across all of Ontario. The types of waste to be received at the site will be mixed, solid non-hazardous waste from new construction, renovation, and demolition projects including metals, plastics, roofing, aggregate, cardboard, wood, and bulk rejected waste. Incidental materials, such as used tires, may be accepted on an infrequent basis. No hazardous wastes shall be delivered to or processed at the facility. The proposed transfer/processing facility would receive a maximum of 1,600 tonnes of waste per day. Limitations on the type and amount of waste to be received at the site have been included in the conditions of approval, and staff do not support the inclusion of used tires as an acceptable waste type (Recommendations (a) (iii), and (v)).
All waste collected on site will be transported to a municipal landfill or transfer station for disposal by an appropriately licensed hauler. Recyclables will be hauled to processors for recycling. The facility would have storage capacity on site, for a maximum of 3,200 tonnes. The facility will receive waste 24 hours a day, and operate processing equipment up to 16 hours a day, from Monday to Saturday.

**Site Plan**

The applicant submitted a Site Plan Control application in August, 2009, and obtained conditional approval on December 17, 2009. The site is currently vacant, and is proposed to contain a 6,160 square metre processing building, and 395 square metre office building (see Appendix “C”).

A control gate and scale house are also proposed at the access driveway. Trucks will be weighed upon entering and exiting the site. The City's Traffic Engineering and Operations Section has provided comments based on the additional information received as part of a submitted Design and Operations Report, prepared by ASI Group Ltd., dated January 14, 2010, and has advised that based on the volume of trucks entering the site, mitigative measures will need to be imposed in order to ensure there is sufficient space available on site for trucks to queue and that no stacking can spill out onto Nebo Road. This will be addressed prior to final approval of the Site Plan application.

No outdoor storage has been identified on the site plan, however, it has been indicated in the Design and Operations Report that some materials may be stored external to the building, in roll off bins and trailers or covered structures. Staff notes that any outdoor storage areas are required to be shown on the site plan, and will be subject to the applicable provisions in the Zoning By-law. Glanbrook Zoning By-law No. 464 does not permit outdoor storage on the portion of the property that is zoned Prestige Industrial “M1” Zone (lands fronting onto Nebo Road to approximately 70 metres back - see Appendix “A”). By-law No. 10-128, to incorporate Industrial Zones into Zoning By-law No. 05-200, was passed by Council on May 26, 2010. The subject lands are zoned Prestige Business Park "M3" Zone, which permits outdoor storage as an accessory use, provided it does not exceed 85% of the total lot area in the (M3) Zone. However, outdoor storage is not permitted in a front yard or required flankage yard, and shall be screened from view from any abutting street by a visual barrier.

The last date for appeals to the By-law is June 24, 2010. Accordingly, both Zoning By-laws will apply during the ‘hiatus’ period, and the proposed development must comply with the most restrictive regulations.
As a condition of Site Plan Approval, the applicant was required to submit a Noise Study to address any noise-related impacts the proposed waste processing facility may have on the existing residential dwellings to the north of the subject land. HGC Engineering prepared a noise impact study titled “Environmental Acoustic Assessment Report Countrywide Recycling Hamilton, Ontario”, dated April 6, 2010, which reviewed the acoustic requirements for this development with respect to environmental noise generated by the proposed facility on nearby residential receptors. The noise study recommended the provision of roll-down doors for all bay doors along the south side of the building, as well as ensuring that these doors are kept closed, except during brief periods while trucks are entering and exiting the building. These recommendations will be implemented on the elevation drawings and through the inclusion of specific clauses within the undertaking on the final approved Site Plan.

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 Certificate. Most of these recommended conditions are addressed in the Relevant Consultation section of this report (see Pages 8 - 10), the remainder of which will be dealt with through the approval of the Site Plan Control application. In addition, several standard conditions of approval are also recommended, relating to financial assurances to the MOE for final site clean-up, limitation of the origin of the accepted waste, and identification of an MOE contact for all issues related to the operation (Recommendations (a) (xv), (xvi), and (xvii)).

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

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.

### CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


**Intergovernmental Relationships**
- Maintain effective relationships with other public agencies.

**Growing Our Economy**
- Newly created or revitalized employment sites.

**Environmental Stewardship**
- Reduce the impact of Hamilton's industrial, commercial, Private, and Public operations on the environment.

### APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Processing Facility
- Appendix “C”: Site Plan

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Attachs. (3)