Council Direction:

An application may be appealed to the Ontario Municipal Board (OMB), in accordance with the Planning Act, after 180 days (Official Plan Amendment) or 120 days (Zoning By-law Amendment) if Council has not made a decision on the application(s). A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council pursuant to the Planning Act was passed by City Council on May 18, 2010. The following information is provided for Regional Official Plan Amendment (ROPA-12-001) and Zoning By-law Amendment (ZAR-12-071) applications for 899 Nebo Road (Glanbrook), which have been appealed to the OMB for lack of decision.

Information:

This Information Report was prepared in accordance with Council’s policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB for Official Plan and Zoning By-law Amendment applications. Applications for a Regional Official Plan Amendment and Zoning By-law Amendment were submitted by Nebo Group (2006), Inc., on December 24, 2012, and deemed complete by the City of Hamilton on January 23, 2013.
The subject lands are located at 899 Nebo Road, in the Township of Glanbrook (see Appendix “A”), within the Red Hill Industrial Business Park South. The subject lands are designated “as “North Glanbrook Industrial Business Park” on Schedule A - Land Use Plan (see Appendix “B”). The applicant has applied for amendments to the Hamilton-Wentworth Official Plan and Hamilton Zoning By-law No. 05-200 in order to add hazardous waste streams within an unused portion of the existing “Waste Transfer Facility” (see Appendix “C”), on lands located at 899 Nebo Road (Glanbrook).

It is noted that a Ministry of the Environment Compliance Approval (ECA) 9140-86WPW9, for the inclusion of hazardous waste streams, was issued by the Ministry on August 13, 2010, notwithstanding that the required municipal approvals were not obtained by the owner/applicant. However, the Ministry of Environment has advised that Conditions 7 and 10 of the Environmental Compliance Approval precludes the operation of a Hazardous Waste facility, until such time as the necessary approvals and requirements of the City of Hamilton have been satisfied. Accordingly, the subject applications were submitted, and a response from the City of Hamilton is to be provided to the Environmental Assessment and Approvals Branch of the Ministry of Environment respecting the Environmental Compliance Approval upon final decision by the City of Hamilton.

However, in light of the subject appeal of the required development applications, the Economic Development and Planning Department has recommended Denial of the proposed amendment to the Ministry of Environment Compliance Approval under a letter dated July 2, 2013.

The subject lands are zoned Prestige Business Park (M3, 354, 441) Zone, with Special Exceptions, under City of Hamilton Zoning By-law No. 05-200. In particular, Exception 354 permitted the existing waste processing and waste transfer facility, further amended under Exception 441, to permit a rock crushing and concrete crushing operation accessory to a Waste Processing Facility. The applicant has applied for an additional Special Exception to add Hazardous Waste to the existing waste processing/transfer facility. If approved, modifications to the Zoning By-law and Official Plan(s) would be required to permit the additional hazardous waste streams.

The subject applications were circulated on January 30, 2013. Comments were received from City Departments, outside agencies, and members of the public. The applications were scheduled for a Public Meeting of the Planning Committee on July 9, 2013, but were cancelled upon notification that the applicant’s solicitor, Russell D. Cheeseman, filed an appeal to the OMB with respect to the Regional Official Plan Amendment and Zoning By-law applications for the subject lands for failure of Council to make a decision on the applications, in accordance with the applicable provisions of the Planning Act, on June 26, 2013, 183 days after receipt of the applications.
SUBJECT: Appeals to the Ontario Municipal Board on the City of Hamilton’s Refusal or Neglect to Adopt Amendments to the Hamilton-Wentworth Official Plan and Hamilton Zoning By-law No. 05-200 for Lands Located at 899 Nebo Road (Glanbrook) (PED13147) (Ward 11) - Page 3 of 3

Appendices:

- Appendix “A”: Location Map
- Appendix “B”: Township of Glanbrook Official Plan Schedule “A” - Land Use Plan
- Appendix “C”: Site Plan of Existing Waste Processing/Transfer Facility

:AC
Attachs. (3)