City Clerk's Division
COUNCIL FOLLOW-UP NOTICE

TO: Ida Bedioui
Legislative Assistant, Office of the City Clerk

DATE: July 8, 2011

FROM: Andy Grozelle
Legislative Assistant, Office of the City Clerk


A. RESOLUTIONS:

Please be advised that Council at its meeting of July 7, 2011 passed the following in respecting Item 2 of Planning Committee Report 11-013:

Item 2 Application for an Amendment to a Ministry of Environment Provisional Certificate of Approval No. A130407 (2285-85ZK3L) to Operate a Waste Disposal Site (Transfer/Processing), 35Jones Road (Stoney Creek) (PED11124) (Ward 11)

That Item 2 of the Planning Committee Report 11-013 be referred back to the Planning Committee.

B. GENERAL NOTES:

Council members indicated that they would like to see further information provided around the Overstrength Discharge Agreement. Attached below is Report PED111124 in its entirety.

Thank You,

Andy Grozelle
TO: Chair and Members Planning Committee  
WARD(S) AFFECTED: WARD 11  

COMMITTEE DATE: July 5, 2011  

SUBJECT/REPORT NO:  
Application for an Amendment to a Ministry of Environment Provisional Certificate of Approval No. A130407 (2285-85ZK3L) to Operate a Waste Disposal Site (Transfer/Processing), 350 Jones Road (Stoney Creek) (PED11124) (Ward 11)  

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department  

PREPARED BY:  
Peter De Iulio  
(905) 546-2424, Ext. 1345  

SIGNATURE:  

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-10-005, by 958160 Ontario Limited (Da-Lee Waste Oil Services), Applicant, for an Amendment to Provisional Certificate of Approval No. A130407, MOE Reference #2285-85ZK3L, to allow for the installation of a water treatment facility to treat liquid industrial and leachate waters, for the lands located at 350 Jones Road (Stoney Creek), as shown on Appendix “A” to Report PED11124, that the City of Hamilton requests:  

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

(i) Obtain a building permit from the City of Hamilton, Building Services Division, for construction of the proposed Oily-Water Treatment Facility/Storage Drum Facility for hazardous, toxic, and corrosive waste.
(ii) Once the new building is constructed and occupied, provide a letter signed by a Professional Engineer, indicating compliance with Part 4 of the Ontario Fire Code in this area. The existing building/tank farm is already Part 4 compliant.

(iii) That a current copy of the Emergency Response Plan, Spills Containment and Contingency Plan, and 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.

(iv) 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 (Fire Safety Inspection Report dated August 20, 2010).

(v) That the Certificate of Approval limit the maximum daily receipt of waste to a maximum rate of 100 tonnes per day of solid non-hazardous waste, 103 tonnes per day of solid hazardous waste, 300 cubic metres per day of liquid industrial waste, and 40 cubic metres per day of liquid hazardous waste.

(vi) That for any liquids that are generated from outside of the City of Hamilton that are discharged into the sewer system, the proponent enters into a Sanitary Sewer Surcharge Agreement with the City, if required.

(vii) That the proponent enters into an Overstrength Discharge Agreement with the City.

(viii) That private sampling manhole(s) be installed for each sanitary sewer connection and each storm sewer connection to the City’s sanitary and storm sewer systems, at the owner’s expense, to the satisfaction of the Supervisor, Environmental Enforcement, Compliance and Regulations Section, Environment and Sustainable Infrastructure Division, Public Works Department.

(ix) That an inventory of waste types stored on-site should be updated daily, and be provided to the Ministry of the Environment.
(x) That the Certificate of Approval includes strict requirements for excellent on-site housekeeping practices for the approved classes of waste to minimize adverse effects to the surrounding uses.

(xi) 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. 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.

(xii) That the waste accepted be limited to waste generated only from the Province of Ontario.

(xiii) 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.

(iv) 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 PED11124 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.

**EXECUTIVE SUMMARY**

The applicant, Da-Lee Waste Oil Services, has applied to the MOE for an Amendment to an existing Provisional Certificate of Approval for a Waste Disposal Site (transfer/processing) to allow for the installation of a water treatment facility to treat liquid industrial and leachate waters. The facility currently has approval to receive up to 100 tonnes per day of solid non-hazardous waste, 103 tonnes per day of solid hazardous waste, 300 cubic metres per day of liquid industrial waste, and 40 cubic metres per day of liquid hazardous waste. The current maximum storage capacity is 64 tonnes of solid non-hazardous waste, 40 tonnes of solid hazardous waste, 507 cubic
metres of liquid industrial waste, and 50 cubic metres of liquid hazardous waste. The current maximum residual waste for final disposal is 100 tonnes per day of solid non-hazardous waste, 103 tonnes per day of solid hazardous waste, 300 cubic metres per day of liquid industrial waste, and 40 cubic metres per day of liquid hazardous waste. The proposal is also for the inclusion of waste characteristics A (acute hazardous waste chemical), B (hazardous waste chemical), C (corrosive waste), H (hazardous industrial waste), and R (reactive waste), and to increase the maximum storage capacity of liquid industrial waste by 180 cubic metres to 687 cubic metres. The hours of operation are 24 hours per day, Monday to Sunday, serving the Province of Ontario, which has not changed from the current Certificate of Approval.

The MOE 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 addressed in the amended Certificate, as will be further discussed below.

Alternatives for Consideration - See Page 11.

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:

On June 10, 2009, Council adopted Amendment No. 148 to the Stoney Creek Official Plan, which designated the subject lands at 350 Jones Road with site-specific provisions to recognize the Waste Management Facility on the site as existing on the date of passing of By-law No. 09-130 (June 10, 2009). Therefore, this proposal conforms with the site-specific provisions in the Official Plan and Zoning By-law Amendments approved by Council.

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 “Business Parks” in the Hamilton-Wentworth Official Plan. Policy C-3.1.3 outlines that companies in the fastest growing business sectors, environmental protection and remediation for example, require locations where several functions can be accommodated. The main function of the “Business Parks” is to accommodate firms that require relatively low-density sites with the locational or other advantages that come from being in a particular Business Park. Therefore, the proposed amendment to the MOE Certificate of Approval regarding the existing waste management facility conforms with the Hamilton-Wentworth Official Plan.
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. Further, within the recently adopted Official Plan Amendments regarding private waste disposal facilities, the subject lands have been designated with a site-specific provision permitting a waste management facility as existing at the date of approval of the amendments (June 10, 2009). Therefore, the proposed amendment to the MOE Certificate of Approval, to allow the expansion of the existing waste management facility to allow for the installation of a water treatment facility to treat liquid industrial and leachate waters, conforms with the City of Stoney Creek Official Plan.

Stoney Creek Zoning By-law

The subject lands are zoned General Industrial “MG” Zone in the City of Stoney Creek Zoning B-law No. 3692-92. As mentioned above in the Background section, with 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 have been recognized with site-specific provisions to recognize the waste management facility on the site. The wording of the site-specific provisions in the Official Plan and Zoning By-law permits a waste management facility as existing at the time of passing of By-law No. 09-130 (June 10, 2009). Therefore, this proposal to allow for the installation of a water treatment facility to treat liquid industrial and leachate waters complies with provisions of the Zoning By-law.

New Urban Hamilton Official Plan

The subject lands are designated “Employment Areas” on Schedule “E” - Urban Structure and “Business Park” on Schedule “E-1” - Urban Land Use Designations in the new Urban Hamilton Official Plan.

The proposed use would conform with the new Urban Hamilton Official Plan.

New Industrial Zoning

The subject lands are zoned General Business Park (M2, 353) Zone in Hamilton By-law No. 05-200, as amended by By-law No. 10-128. This site-specific Zone permits the existing Waste Management Facility. Staff notes that at the time of the preparation of this Report that this zoning is under appeal and, as a result, is not in force and effect. However, the proposed application would comply with the By-law.
RELEVANT CONSULTATION

The Health Protection Branch (Public Health Services) has no objection to the proposal and provides the following comments:

1. All potential sewer discharge requirements are fully met and abided by, as set out by the City of Hamilton Public Works Department.

2. Excellent housekeeping practices be employed for classes which are approved (i.e. storage/segregation/labelling), which are stipulated by MOE and/or City of Hamilton Fire.

3. Adequate spill response/fire control measures are in effect at all times with trained staff and outside emergency staff, as stipulated by MOE and/or City of Hamilton Fire.

Included in Recommendations (a) (vi), (vii), (x), and (xi).

The Traffic Engineering Group (Public Works Department) has no comments.

The Environmental and Sustainable Infrastructure Division (Public Works Department) provide the following comments:

1. A review of the Da-Lee Waste Oil Services application indicates that spill prevention and containment measures will be dealt with through the C of A. Also, that any solid and liquid waste will be appropriately dealt with following the proper Ministry of the Environment Guidelines.

2. Contingency plans for spills on site and clean up procedures are covered under the company’s Contingency Plan. This plan should be updated to include the City of Hamilton (City) Spill Reporting Line (905) 540-5188.

3. A review of the application indicates that liquid waste is hauled to the Jones Road facility from a variety of locations. The application proposes that some of this liquid waste will be treated to comply with the City’s Sewer Use By-law No. 04-150 (By-law) discharge limits and, subsequently, discharged to the City’s sanitary sewer system.

Discharge of liquid waste that does not originate from the City’s potable water distribution system into the City’s sewage works requires a Sanitary Sewer Surcharge Agreement with the City.
4. Subsequent to Item 3 above, operation of the proposed treatment system would have to include a means to accurately record the volume of liquid waste that does not originate from the City’s potable water distribution system.

5. The application also indicates that the treated liquid waste may not comply with the discharge limits for treatable parameters under the By-law.

Discharge of liquid waste that exceeds the By-law limits for treatable parameters into the City’s sewage works requires an Overstrength Discharge Agreement with the City.

6. Subsequent to Items 3 and 5 above, Da-Lee would not be eligible for the noted Agreements unless their liquid waste discharge to the City’s sewage works is compliant with the By-law discharge limits, except for the parameters that are eligible for an Overstrength Discharge Agreement.

The application includes laboratory analysis of a treated water sample. This data has been reviewed, and the following concerns have been identified that would prevent Da-Lee from obtaining the noted agreements:

a) The results for Total Chromium and Total Iron are above the By-law discharge limits, 5 mg/L and 50 mg/L, respectively.

b) The treatment process includes the addition of Ferrous Sulphate, but the sample was not analyzed for Total Sulphate.

c) The treatment process includes the addition of acid to adjust pH, but the sample was not analyzed for pH.

d) The sample was not analyzed for Total Chloride.

e) The facility accepts oils that contain PCBs, but the sample was not analyzed for PCBs.

f) The sample contained Total PAHs, and there is concern regarding the ability of the treatment system to adequately remove this parameter.

g) The reported detection limits for many of the semi-volatile and volatile organic parameters are very high, and in some cases higher than the By-law discharge limits (bis(2-ethylhexyl)phthalate, 3,3-Dichlorobenzidine, Pentachlorophenol, Benzene, & Toluene). These detection limits are not acceptable as they fail to accurately quantify the concentrations of the parameters in question.
7. Finally, the By-law requires that a private sampling manhole be present for each sanitary sewer connection and each storm sewer connection to the City’s sewage works.

   If this requirement is not currently met at the 350 Jones Road facility, Da-Lee would be required to have private sampling manholes installed, at their sole expense, prior to commissioning the proposed treatment system.

As it stands, the proposal put forth by Da-Lee Waste Oil Services is not acceptable from a sewer use standpoint, and the above-noted seven items would need to be addressed before any discharge to the City’s sewage works would be permitted.

Public Works comments have been included in Recommendations (a) (vi), (vii), (viii), and (xi). Staff notes that the water sample identified in Point 6 above was a very crude sample, and that more accurate sampling is going to be completed, by the owner, and they are confident that they will be able to satisfy the City standards.

**Hamilton Emergency Services (Fire Prevention Division)** - The Fire Department has no objection to the issuance of this Certificate of Approval providing that the applicant complies with the following requirements:

1. Obtain a building permit from the City of Hamilton, Building Services Division, for construction of the proposed Oily-Water Treatment Facility/Storage Drum Facility for hazardous, toxic, and corrosive waste.

2. Once the new building is constructed and occupied, provide a letter signed by a Professional Engineer, indicating compliance with Part 4 of the Ontario Fire Code in this area. The existing building/tank farm is already Part 4 compliant.

3. That a current copy of the Emergency Response Plan, Spills Containment and Contingency Plan, and 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 24/7, 365 days a year.


Hamilton Emergency Services comments have been included in Recommendations (a) (i), (ii), (iii), and (iv).
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 June 9, 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

Da-Lee Waste Oil Services is a waste transfer operation which specializes in the transfer of non-hazardous liquid industrial wastes. Da-Lee receives waste from clients across Ontario, segregates the waste, and stores them in tanks. Once sufficient volume is received, the waste is loaded onto a tanker and shipped to a licensed facility for disposal. No processing of waste takes place at the subject property. The site operates 24-hours a day, 7-days a week. The current site layout is shown on Appendix “B” to this Report.

Da-Lee is proposing to upgrade their plant to effectively treat the material they currently receive by installing a water treatment facility to treat liquid industrial and leachate waters (see Appendix “C”). The facility will consist of two separation tanks, two treatment tanks, acid tanks, an oil/water separator, regent mixing tank, a filter press, and appropriate containment (see Appendix “D”).

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 of this Report. In addition, several standard conditions of approval are also recommended relating to financial assurances to the MOE for final site clean-up, limitation on the origin of the accepted waste, and identification of an MOE contact for all issues related to the operation (Recommendations (a) (xii), (xiii), and (xiv)).
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 Recommendations section of this Report.

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


**Intergovernmental Relationships**

- Maintain effective relationships with other public agencies.
- Continue to work with the Ministry of the Environment.

**Growing Our Economy**

- Competitive business environment.
- Supporting the expansion of an existing business.
**Environmental Stewardship**

- Reduce the impact of Hamilton’s industrial, commercial Private and Public operations on the environment.
- An existing business is disposing of hazardous and non-hazardous wastes in a controlled environment, and 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.

### APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Layout of Existing Operation
- Appendix “C”: Layout of Expanded Operation
- Appendix “D”: Proposed Expanded Building Layout

:PD
Attachs. (4)
Existing Site Plan