TO: Chair and Members Planning Committee

WARD(S) AFFECTED: WARD 10

COMMITTEE DATE: May 17, 2011

SUBJECT/REPORT NO:
Application for Ministry of Environment Certificate of Approval for a Waste Disposal Site, Ministry of Environment Reference #7216-8CZLEL, 565 Arvin Avenue (Stoney Creek) (PED11087) (Ward 10)

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

PREPARED BY:
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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 MOE-CA-11-001, Mida RPM, a Division of Mida International Inc., Applicant, for a Certificate of Approval for a Waste Disposal Site, MOE Reference #7216-8CZLEL, to permit a waste processing facility on the lands located at 565 Arvin Avenue (Stoney Creek), as shown on Appendix “A” to Report PED11087, 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 the Certificate of Approval limit the daily processing of waste to a maximum annual average of 100 tonnes per day, a maximum of 25,000 tonnes per year, and a maximum storage of 890 tonnes of waste at any one time.

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

(iv) That the waste streams accepted at this facility be limited to non-hazardous municipal solid waste comprised of waste electronic and electrical equipment (WEEE) collected under the Ontario Electronic Stewardship (OES) Program, as well as scrap metal from residential, and industrial, commercial, and institutional (IC&I) sources.

(v) That the proponent be aware that Arvin Avenue is a Reduced Load Roadway from March 1 to April 30, where full loading of standard trucks is not permitted.

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

(vii) That any fugitive hazardous waste quantities (i.e. batteries, leaded glass, ink, mercury switches, etc.) be identified and stored accordingly, and be sent to an approved recycler.

(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 comply with the Fire Safety Inspection Report and Fire Marshals Inspection Order dated February 24, 2011.

(xi) That the spills prevention and containment measures plan include measures to deal with douse water or fire water in the event of a fire.

(xii) That the proponent shall implement on site spills prevention and containment measures included in the Certificate of Approval. That the Contingency Plans for spills on and off site, and clean-up procedures, are covered under the Certificate of Approval, and that the City’s Spill Reporting Line (905) 540-5188 and the Ministry of the Environment Spills Action Centre (800) 268-6060 be included in the company’s Contingency Plan.
Executive Summary

The applicant, MIDA Recycled Precious Metals (RPM), a Division of Mida International Inc., has applied to the MOE for a Certificate of Approval for a Waste Disposal Site to permit a new waste processing facility on the lands at 565 Arvin Avenue (Stoney Creek) (see Appendix “A”). The facility will receive, process, and store non-hazardous waste under the Ontario Electronic Stewardship Program. The type of waste to be received on site will be waste electronic and electrical equipment (WEEE), as well as scrap metal from residential and industrial, commercial, and institutional (IC&I) generators. The site would receive an annual average of 100 tonnes of waste per day; however, during peak times may receive up to a maximum of 200 tonnes of waste per day provided the
maximum annual limit of 25,000 tonnes is not exceeded. A maximum of 890 tonnes of waste would be stored on site at any time. All loading activities would be accommodated within a portion of the existing building, and waste storage would be accommodated within the building, with some temporary outside storage of scrap metal in roll-off bins within the designated area, as shown on the Process Schematic (see Appendix “B”).

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 included in the Certificate, as will be further discussed below.

Alternatives for Consideration - See Page 13.

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.

HISTORICAL 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.

**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.

These policies have also been incorporated into the City’s new Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009. The Ministry of Municipal Affairs and Housing issued its decision on March 10, 2011, with the last date for appeal being April 5, 2011. The Plan has been appealed to the Ontario Municipal Board (OMB).

**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. Policy C-4.2.2.10 outlines the policies for Waste Management Facilities:
“4.2.2.10 Waste Management Facilities

4.2.2.10.1 Waste management facilities shall include the following uses: waste processing facilities, waste transfer facilities, hazardous waste management facilities, and waste disposal facilities.

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

a) Compatibility between existing land uses and the proposed waste management facility;

b) Protection of public health and safety;

c) Protection of the natural and cultural environments;

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

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

4.2.2.10.4 The City shall provide comments to the Ontario Ministry of the Environment concerning applications for a Certificate of Approval for a 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.

Waste Processing Facilities and Waste Transfer Facilities

4.2.2.10.8 Waste processing facilities and waste transfer facilities, including expansions, shall be located a minimum of 300 metres from a Residential or Institutional designation.”

The subject property is over 375 metres from the nearest lands designated “Residential”. As a result, the proposed MOE Certificate of Approval application to establish a new waste processing facility conforms with the Hamilton-Wentworth Official Plan.
City of Stoney Creek Official Plan

The subject lands are designated “Industrial - Business Park” in the Stoney Creek Official Plan. The primary uses permitted in this designation shall be for manufacturing, the processing of raw materials or goods, repairing and servicing operations, warehousing and storage and transportation terminals. Additionally, Waste Management Facilities may also be permitted subject to compliance with the policies of the Regional Official Plan. Policy A.4.2.5 states that new industrial uses are permitted provided that the proposed uses comply with all Provincial standards with respect to the emission of sounds and vibrations, permissible concentration of air contaminants such as dust, smoke fumes and odours, water quality control, and waste control. 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, and note that the MOE Certificate of Approval contains conditions to ensure that the Site is operated in a manner which does not result in a nuisance or a hazard to the health and safety of the environment or people. Therefore, the proposal conforms to the Stoney Creek Official Plan.

New Urban Hamilton Official Plan

The proposal has been reviewed against the policies of the City’s new Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009. The Ministry of Municipal Affairs and Housing issued its decision on March 10, 2011, with the last date for appeal being April 5, 2011. However, the Plan has been appealed to the OMB.

The subject lands are designated “Employment Area - 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 stormwater management facilities; and,

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

5.3.6.2 The City shall provide comments to the Ontario Ministry of the Environment concerning applications for a Certificate of Approval for a 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.

5.3.6.5 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 land use within the Neighbourhoods, Institutional, or Commercial and Mixed-Use designations.”

Since a “Waste Processing Facility” is a permitted use in the “Employment Areas - Business Park” designation and the proposed facility is not within 300 metres of the “Neighbourhoods”, “Institutional”, or “Commercial and Mixed-Use” designations, the proposal conforms to the applicable policies of the Official Plan.

Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned General Industrial “MG” Zone in Stoney Creek Zoning By-law No. 3692-92. A “Waste Processing Facility” and “Waste Transfer Facility” are permitted uses provided they are located a minimum of 300 metres from residentially or institutionally zoned lands. The subject lands are located a minimum of 375 metres from lands zoned for residential purposes, therefore, the proposed use is permitted.
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 By-law has been appealed to the Ontario Municipal Board and will be dealt with during the Board hearing scheduled for May 30, 2011. The subject lands are zoned General Business Park (M2) Zone, which permits a “Waste Processing Facility” and “Waste Transfer Facility” provided any building, structure, or land utilized for such uses is located a minimum of 300 metres from a Residentially Zoned or Institutionally Zoned property line. The subject lands are located a minimum of 375 metres from lands zoned for residential purposes, therefore, the proposed use would be permitted.

RELEVANT CONSULTATION

The Public Works Department, Operations and Waste Management Division, provided the following comments:

“This proposal is for a Provisional Certificate of Approval to operate a Waste Disposal Site (processing) to allow for the receipt, processing, and transfer of waste electronic and electrical equipment (WEEE) collected under the Ontario Electronic Stewardship (OES) Program, as well as scrap metal from residential, industrial, commercial, and institutional (IC&I) sources. This application has no impact on the City of Hamilton’s Solid Waste Management Master Plan (SWMMP) or the Waste Management System. The proposal compliments the SWMMP in that it provides a processing facility for WEEE and scrap metal which is currently accepted from residential sources at the City’s three Community Recycling Centres.”

The Public Works Department, Traffic Engineering and Operations Division, provided the following comments, which are being addressed through Recommendation (a) (v):

“For the information of the Applicant, Arvin Avenue is a Reduced Load Roadway from March 1 to April 30. Therefore, full loading of the standard trucks is not permitted.

There does not appear to be any changes proposed to the existing site accesses. With the current weather conditions, a full access review could not be completed. Based on aerial photos and the City’s GIS system, it appears that maintenance upgrades are required for the easterly driveway to the property. It appears that trucks may be cutting the corner tight at that access and are damaging the ditch area.

The information report provided by the Applicant indicates that trucks will enter the site via the westerly driveway, but the report does not indicate if trucks will leave the site via the westerly or easterly driveway. Using aerial photos, we have scaled the westerly
driveway as being less than 9.0m in width, which is minimal considering inbound and outbound full size transport trucks will be using the driveway. We require confirmation from the Applicant regarding truck flow related to existing users and the proposed use.

Any works within the municipal roadway road allowance that the Applicant undertakes (e.g. Access upgrades) must be completed by a contractor bonded by the City of Hamilton. We recommend that any existing business signs on the site adjacent to the two existing driveways must be a minimum of 5.0m from the driveways (cannot be within the 5.0m x 5.0m vision triangle area)."

The applicant submitted additional information regarding truck access movements, and a site visit was conducted by the City’s Roads and Maintenance staff. It has been determined that no further works are required.

The Public Works Department, Environment and Sustainable Infrastructure Division, advises that:

“1. A review of the Mida RPM application indicates that spill prevention and containment measures should be included to deal with “douse water” or “fire water” in the event of a fire; and,

2. Contingency plans for spills on and off site, and clean up procedures, should be covered under the company’s Spill Prevention Control and Counter Measure Plan. This plan should include the City of Hamilton (City) Spill Reporting Line (905) 540-5188 and the Ministry of the Environment, Spills Action Centre (800) 268-6060.

As it stands, the proposal put forth by Mida RPM is acceptable from a sewer use standpoint, with the provision that wastewater discharged from this operation complies with Sewer Use By-law 04-150, as amended, and that they institute the above-noted two items as indicated.”

These are being addressed through Recommendations (a) (xi) and (xii).

The Health Protection Branch, Public Health Services Department, offers the following recommendations:

“1. All fugitive hazardous waste quantities (i.e. batteries, leaded glass, ink, mercury switches, etc.) be identified and stored accordingly.

2. As indicated in the D&O, any hazardous materials should be sent to an approved recycler.
3. An effective mitigation plan be put into effect to control all nuisance issues related to dust, litter, odour, and vermin, as needed.”

These are being addressed through Recommendations (a) (iii), (vii), (viii), and (ix).

**Hamilton Emergency Services, Fire Prevention Division**, has no objection to the issuance of the Certificate of Approval provided that the application complies with the following requirements:


2. Compliance with the Fire Marshals Inspection Order.

3. That a current copy of the Emergency Response Plan, Spills Contaminant and Contingency Plan, daily product inventory list, including product quantities and exact location within all facilities, along with the MSDS sheets, as applicable, be externally stored in a secure location (exterior lock box) on site at the front gate 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.

Be advised that we will be serving the owner of record with a copy of the Fire Safety Inspection and Fire Marshals Inspection Order to initiate compliance with the requirements”.

These are being addressed through Recommendations (a) (x) and (xiii).

**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 January 17, 2011, requesting comments by February 17, 2011.

The MOE has been notified that the City of Hamilton would not meet the commenting deadline for this application. The MOE has informed City staff that it is standard Ministry policy to allow 6 weeks for all municipalities to provide comments on applications in order to ensure reasonable timelines are met for all reviews. The Ministry will accept comments from the City of Hamilton at any time during the course of their review; however, cannot guarantee that the file will remain open until the requested date of May 16, 2011. Further correspondence was sent to the Ministry advising that...
the Report would be on the May 17, 2011 Planning Committee agenda, and be ratified by Council on May 25, 2011. Comments from the City of Hamilton would be forwarded to the Ministry shortly after May 25, 2011. The Ministry has advised in their response on April 8, 2011, that the Certificate of Approval has not yet been issued, and it is likely that City comments will be received prior to the issuance of a decision on the application.

ANALYSIS / RATIONALE FOR RECOMMENDATION
(include Performance Measurement/Benchmarking Data, if applicable)

Site Operations

Mida Recycled Precious Metals (RPM), a Division of Mida International Inc., has proposed a new waste processing facility on the lands located at 565 Arvin Avenue (Stoney Creek). Mida RPM currently operates a similar facility located at 384 Millen Road (Stoney Creek); however, requires a larger facility to expand their operation.

The subject lands are currently occupied by a 5,000 square metre building. The waste processing facility will occupy 2,230 square metres within the rear of the existing building. The facility will be designed to accept, sort, disassemble, process, repackaging, and ship the waste material. The types of waste to be received at the site will be waste electronic and electrical equipment (WEEE), as well as scrap metal. All waste will be unloaded, stored, processed, and reloaded inside the building, with the exception of the temporary storage of scrap metal, and is proposed to be stored outside in roll-off bins within the designated area in the rear of the property (see Appendix “B”). Any proposed accessory structures will require the submission of a Site Plan Control application prior to any materials being processed on site (see Recommendation (a) (i)). Materials received on site will be manually and mechanically disassembled into various components, which are then repackaged and shipped to downstream processors/recyclers.

The Design and Operations (D&O) Report, dated December, 2010, and prepared by ERS Ltd., indicates that the proposed processing facility will receive waste material primarily from within Ontario from residential, commercial, and industrial generators mostly located in the Hamilton area, including Mohawk College, McMaster University, and three City of Hamilton Community Recycling Centres, as well as from generators elsewhere in North America.

The facility would have storage capacity on site, for a maximum of 890 tonnes. The facility will operate 24 hours a day, 7 days a week, with shipping and receiving activities limited to 15 hours a day, 6 days a week (7:00am to 10:00pm, Monday to Friday; and 8:00am to 5:00pm on Saturday).
Upon arrival, materials will be screened to ensure there is no unacceptable material included in the load. Should unacceptable materials be detected, the truck will be reloaded and sent back to the supplier. ERS Ltd. has explained that WEEE streams of waste may contain incidental hazardous materials such as batteries, fluorescent lighting, and toner cartridges. The suppliers are asked not to ship these materials, but some electronics will arrive at the site containing these incidental components. Staff notes that waste management facilities handling hazardous wastes, as defined by Ontario Regulation 347 to the Environmental Protection Act, are not permitted by the City's Zoning By-law. Staff from the MOE has indicated that these incidental materials are excluded from the definition of “subject waste” and “hazardous waste” in Ontario Regulation 347, as these materials remain intact and are destined for a waste recovery facility. Based on this information, the Waste Processing Facility is not considered to be a “Hazardous Waste Management Facility” and is permitted by the applicable Zoning By-laws.

**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 9 - 11). 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) (xiii), (xiv), and (xv)).

**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.

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


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

**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.

**Healthy Community**
- Complements the City’s waste management and diversion initiatives.

**APPENDICES / SCHEDULES**
- Appendix “A”: Location Map
- Appendix “B”: Process Schematic

:JH
Attachs. (2)