SUBJECT: Application for a Ministry of Environment Certificate of Approval for a Waste Disposal Site (Transfer Station), Ministry of Environment Reference 6758-7HPRDW, 899 Nebo Road (PED09183) (Ward 11)

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-09-002, Recycle City, Applicant, for a Certificate of Approval for a Waste Disposal Site (Transfer Station), MOE Reference 6758-7HPRDW, to permit a waste transfer station on the lands located at 899 Nebo Road, Glanbrook, as shown on Appendix “A” to Report PED09183, 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 on site, the proponent obtains site plan approval from the City’s Planning Division, to the satisfaction of the Director, Planning Division, City of Hamilton.

(ii) That prior to receiving any waste materials on site, the proponent obtains a building permit from the Building Services Division for the new facility, to the satisfaction of the Director, Building Services Division, City of Hamilton.

(iii) 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.
(iv) That the proposal shall comply with Subsection 3.3.2 “Indoor General Storage” of the Ontario Fire Code.

(v) That the type of overhead fire suppression system identified in the Application for Certificate of Approval under Section A, Part 11, be confirmed under the signature of a Professional Engineer as to its ability to deal with and control any possible fire situation that might involve the product to be stored in the building. This documentation is to be sent to the Fire Department for review and comment prior to system installation.

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

(vii) That the Certificate of Approval limit the maximum daily transfer of waste to a maximum rate of 299 tonnes per day, and a maximum storage of 600 tonnes of waste at any one time.

(viii) That the waste streams be limited to solid non-hazardous waste, and that no other waste be accepted at this facility.

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

(x) That a Mitigative Dust Control Plan be prepared for site activities, including the entire property.

(xi) 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.

(xii) 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.

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

(xv) 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.

(xvi) 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 PED09183 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, Recycle City Inc, has applied to the Ministry of Environment (MOE) for a Certificate of Approval for a Waste Disposal Site (transfer station) to permit a new waste transfer station on the subject lands at 899 Nebo Road (see Appendix “A”). The type of waste to be stored on site will be solid non-hazardous wastes, predominately from the commercial, industrial, construction, and demolition sectors. A maximum of 299 tonnes of waste would be received per day, and a maximum of 600 tonnes of waste would be stored at any time. All waste storage and loading activities would be accommodated within a proposed 1,300 square metre waste transfer building.
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 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 Township of Glanbrook, 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 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 designated or zoned lands. The subject lands are not located within 300 metres of any lands designated or zoned for residential or institutional purposes and, therefore, comply with the new Official Plan policies and Zoning regulations. 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

Recycle City Inc. (2126085 Ontario Inc.) has proposed a new waste transfer station on the lands located at 899 Nebo Road. The subject lands are owned by The Nebo Group, which operates a soil and aggregate processing business on the site. There is currently one other tenant on the site (Bin There Inc), which is a concrete recycler and waste removal service, and is operated by the same personnel as the applicant for this proposal (Recycle City). The proposed transfer station will share the property with these two existing businesses.

The proposed transfer station will receive waste from Hamilton and the surrounding area. The types of waste to be received at the site will be solid, non-hazardous waste, and will be predominately from the commercial, industrial, construction, and demolition sectors. Examples of this material could include drywall, steel, recyclable material, and clean fill. The proposed transfer station would receive a maximum of 299 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 (Recommendations (a) (vii) and (viii)). Most wastes would be bulked-up and shipped to the final disposal location the same day. Final disposal sites are located in Hamilton, elsewhere in Ontario, and in the United States. The facility would have storage capacity on site for a maximum of 600 tonnes to allow for temporary storage of some wastes until such time as sufficient shipping capacities are attained. The transfer station is proposed to operate 24 hours a day, from Monday to Saturday.
SUBJECT: Application for a Ministry of Environment Certificate of Approval for a Waste Disposal Site (Transfer Station), Ministry of Environment Reference 6758-7HPRDW, 899 Nebo Road (PED09183) (Ward 11) - Page 6 of 12

Site Plan

The applicant has submitted a site plan showing the location of the proposed transfer station, attached as Appendix “B”. The site currently contains one building which contains office space for the existing tenants on site. Several large aggregate piles are also located on the site, which are related to one of the existing tenants (soil and aggregate processing).

The proposed transfer station would be located at the rear of the property, at the east lot line. The proposed building would have a gross floor area of approximately 1,300 square metres. All waste storage would be accommodated within this building, and there will be no outside storage of waste. Loading and unloading would also take place within the transfer station.

A control gate and new weigh scales are also proposed. Trucks will be weighed upon entering and exiting the site. The City’s Traffic Engineering and Operations Section has commented on the proposed site plan, and stated that the proposed weigh scales should be located to the east of the existing building to ensure that sufficient queuing space is provided. Staff notes that the proposed transfer station will be subject to site plan control, and the location of the weigh scales can be determined at that time to ensure proper queuing space. (Recommendation (a) (i))

Dartnall Road extension

The proposed Dartnall Road extension will transect the subject property. The City has negotiated with the property owner to obtain the lands necessary to facilitate the road extension. The proposed extension has been shown on the site plan, attached as Appendix “B”.

Zoning

The subject lands are zoned Prestige Business/Industrial “M1” Zone and General Industrial “M2” Zone in the Glanbrook Zoning By-law. Under the new Official Plan policies and 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), the proposed use is considered a Waste Transfer Facility. This use 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. The subject lands are not within 300 metres of lands zoned for residential or institutional purposes.

Staff notes that should the new Zoning regulations be appealed and, therefore, not come into force and effect, the proposed use would be considered an industrial processing/manufacturing facility under the Glanbrook Zoning By-law, as a waste transfer facility was not previously a defined term. This use is permitted under both the
M1 and M2 zones and, therefore, the proposed waste transfer station is permitted under the Zoning By-law.

In addition, staff notes that outdoor storage is prohibited on the portion of the property zoned M1, and that the proposed waste transfer station will be subject to site plan control.

**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) (xv) and (xvi))

**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.
SUBJECT: Application for a Ministry of Environment Certificate of Approval for a Waste Disposal Site (Transfer Station), Ministry of Environment Reference 6758-7HPRDW, 899 Nebo Road (PED09183) (Ward 11) - Page 8 of 12

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 - Business Parks” within the Hamilton-Wentworth Official Plan. Policy C-3.1.3.1(a) states that a full range of manufacturing, construction, wholesale establishments, truck terminals, research and development uses, and office development associated with these uses shall be permitted within Business Parks. 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), Waste Management Facilities, which includes Waste Transfer Facilities, are permitted as-of-right within this designation, provided that they are located a minimum of 300 metres from a residential or institutional designation. The subject lands are not located within 300 metres of a residential or institutional designation. Therefore, the proposed MOE Certificate of Approval for a waste transfer station conforms with the new policies which will be amended into the Hamilton-Wentworth Official Plan when they come into force and effect.

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. The proposed waste transfer station is permitted under this designation.
Within the new Official Plan policies approved by Council on June 10, 2009 (and currently within the prescribed appeal period), Waste Management Facilities, including Waste Transfer Stations, are permitted in this designation, provided that they are located a minimum of 300 metres from a residential or institutional designation. Therefore, the proposal conforms with the new policies which will be amended into the Glanbrook Official Plan when they come into force and effect.

In addition, 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 a Dust Management Plan (Recommendations (a) (ix) and (x)).

**Glanbrook Zoning By-law**

As noted above, the subject lands are zoned Prestige Business/Industrial “M1” Zone and General Industrial “M2” Zone in the Glanbrook Zoning By-law. The proposed use would be considered an industrial processing/manufacturing facility under the Glanbrook Zoning By-law, as a waste transfer facility is not a defined term. This use is permitted in the M1 and M2 Zones.

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), the proposed use is considered a Waste Transfer 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. As the subject lands are not within 300 metres of lands zoned for residential or institutional purposes, the proposed use would be permitted in the Glanbrook Zoning By-law.

**RELEVANT CONSULTATION:**

The Public Works Department, Traffic Engineering and Operations Division, has advised that the Division has no concerns with the proposed waste transfer station on the property. They note that the proposed weigh scales should be located east of the existing building and parking area to prevent any queuing onto Nebo Road. This would be further addressed at the site plan control stage.

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: a Mitigative Dust Control Plan shall be incorporated for site activities, including the entire property, not limited only to the new building; excellent on-site housekeeping practices shall be implemented for overall general maintenance such as litter and vermin; and strict adherence shall be
required 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) (ix), (x) and (xii).

The Public Works Department, Waste Management Division, 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 Public Works Department, Water and Wastewater Division, has indicated that spill prevention and containment measures will be dealt with through the Certificate of Approval. All solid and liquid waste must be appropriately dealt with through the proper MOE guidelines. Contingency plans for spills on site and clean-up procedures will be covered under the company’s Contingency Plan, and the City’s Spills number 905-540-5188 will be included in the company’s on-site Contingency Plan. A copy of this Plan should be sent to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department. The Water and Wastewater Division has stated that the proposed waste transfer station is acceptable from a sewer use standpoint, with the provision that all wastewater discharged from this operation will comply with Sewer Use By-law 04-150, and that the above noted items are complied with. (Recommendation (a) (xi))

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 all proposed construction and renovations. (Recommendation (a) (ii))
- The applicant shall prepare and submit a Fire Safety Plan, acceptable to the Chief Fire Official, in conformance with Subsection 2.8.2 of the Ontario Fire Code. (Recommendation (a) (iii))
- The life safety systems/features of proposed waste transfer station building has yet to be determined. Therefore, specific requirements cannot be identified relating 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. (Recommendation (a) (iv))
- An inventory of waste types stored on site should be updated daily and be provided to the Ministry of Environment. (Recommendation (a) (vi))
• 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, and be submitted to the satisfaction of the Ministry of the Environment. (Recommendation (a) (xi))

• 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) (xii))

• That the type of overhead fire suppression system identified in the Application for Certificate of Approval be confirmed under the signature of a Professional Engineer as to its ability to deal with and control any possible fire situation that might involve the product to be stored in the building. This documentation is to be sent to the Fire Department for review and comment prior to system installation. (Recommendation (a) (v))

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

• 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) (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. In this case, the applicant has circulated a notice of this application to nine adjacent property owners. In addition, the MOE posted this proposal on the Environmental Registry on September 16, 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.
CITY STRATEGIC COMMITMENT:

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. (2)