



## The Corporation of the Town of Tecumseh

Development Services

**To:** Mayor and Members of Council

**From:** Brian Hillman, Director Development Services

**Date to Council:** September 10, 2024

**Report Number:** DS-2024-29

**Subject:** Memorandum of Understanding and Zoning By-Law  
Amendment  
Proposed Excess Soil Fill Site and Future Passive Municipal  
Recreational Area  
Northeast of South Talbot Road and Howard Ave. Intersection  
Results of Public Meeting and Final Recommendations  
OUR FILE

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### Recommendations

It is recommended:

**That** Report DS-2024-29 entitled “Memorandum of Understanding and Zoning By-Law Amendment: Proposed Excess Soil Fill Site and Future Passive Municipal Recreational Area - Northeast of South Talbot Road and Howard Ave. Intersection, Results of Public Meeting and Final Recommendations”, **be received**;

**And that** a by-law authorizing the execution of the Amico Infrastructure Inc. Memorandum of Understanding, dated July 5, 2024, satisfactory in form to the Town’s Solicitor, which provides terms and conditions regarding Amico Infrastructure Inc.’s proposal to permit its 15 hectare (37 acre) property located on the north side of South Talbot Road, immediately east of its intersection with Howard Avenue to be used as a temporary reuse site in accordance with Ontario Regulation 406/19: Onsite and Excess Soil Management, and long-term to be used for a naturalized, passive municipal recreational property, **be adopted**;

**And further that** a by-law having the effect of amending Zoning By-law 85-18 by rezoning a 15 hectare (37 acre) parcel of land located on the north side of South Talbot Road, immediately east of its intersection with Howard Avenue, from “Agricultural Zone (A)” to a site-specific “Agricultural Zone (A-42)” to permit the use of the property as a temporary excess soil reuse site in accordance with Ontario Regulation 406/19: Onsite and Excess Soil Management, and long-term to be used for a naturalized, passive municipal recreational property, in keeping with DS-2024-29, **be given first and second readings;**

**And furthermore that** a new site plan control by-law that will:

- i) designate the entirety of the Town of Tecumseh as a site plan control area, in accordance with Section 41 of the *Planning Act* and subsection 10.4.1 of the Tecumseh Official Plan;
- ii) add excess soil reuse sites in accordance with Ontario Regulation 406/19: Onsite and Excess Soil Management, as amended, as a land use subject to site plan control; and
- iii) repeal the current Town-Wide Site Plan Control Designating By-law, being By-law Number 2022-103,

**be adopted.**

## **Background**

### **Planning Application and Property Location**

Amico Infrastructure Inc. (“Amico”) filed an application with the Town to amend Zoning By-law 85-15 for a 15-hectare (37 acre) property located on the north side of South Talbot Road, immediately east of its intersection with Howard Avenue (“subject land”) (see Attachment 1). The application proposed the rezoning of the lands from “Agricultural Zone (A)” to a site-specific “Agricultural Zone (A-42)” to permit the use of the property as a temporary excess soil reuse site in accordance with Ontario Regulation 406/19: Onsite and Excess Soil Management, and long-term to be used for a naturalized, passive municipal recreational property. The subject property is designated Agricultural in the Town of Tecumseh Official Plan (see Attachment 2) and zoned Agricultural Zone (A) in Zoning By-law 85-15 (see Attachment 3).

The clean fill proposed to be brought to the site would be from Amico projects, with the only exception being an allowance for 10% of clean fill to be brought to the site from Town capital infrastructure projects, at a cost to be negotiated by the Town.

The placement of soil within the 15 hectares (37 acres) would be completed in such a manner that complies with a to-be-agreed-upon Park Plan prepared by and at the expense of Amico with the assistance of a landscape architect and/or parks planner and approved by the Town. The current concept is to place the fill on the property in a manner that, when complete, will form two, approximately 40-foot-high, centrally located hills, and will include the planting of indigenous plants and the construction of gravel multi-use trails (see preliminary park concept plan, cross-section and park images at Attachment 4). Upon approval by the Town, the property would then be transferred at no cost to the municipality, possibly in phases. No transfers would take place until after the completion of various due diligence matters relating to the satisfactory condition of the property. It is estimated that the entire property would be filled, naturalized and transferred to the Town in 10-12 years after approvals. Vehicular access to the property would continue to be from the current driveway on South Talbot Road.

Administration, comprising representation from Development Services, Community and Recreation Services, Public Works and Engineering Services, and Legislative and Clerk Services have had several meetings with Amico representatives regarding this proposal. In addition, staff from MECP have attended several meetings and support the proposal.

## Previous Council Resolutions

On July 23, 2024, by way of Report [DS-2024-27](#), Council:

- reviewed the proposal and received Report DS-2024-27;
- supported in principle a Memorandum of Understanding which provides terms and conditions regarding Amico Infrastructure Inc.'s proposal subject to the outcome of the associated zoning by-law amendment application and public consultation process;
- authorized the scheduling of a public meeting in accordance with the *Planning Act* with respect to the proposed zoning by-law amendment; and
- directed Administration to prepare a Report summarizing the results of the public/agency consultation process.

## Public/Agency Consultation Process

On August 13, 2024, Council held a public meeting in accordance with *The Planning Act* to hear comments on the proposed rezoning. The public meeting was attended by an Amico representative.

No concerns were raised at the public meeting with respect to the proposed zoning by-law amendment application.

In addition, correspondence was received by the County of Essex, the Essex Region Conservation Authority and the Ministry of Transportation. All agencies confirmed that there were no concerns with the application, however, the Ministry of Transportation noted that all future access to/from the property will be restricted to South Talbot Road and that no direct access to Highway 3 would be permitted. This form of access is consistent with the discussions between the Town and Amico to date and will be enshrined in the associated site plan control agreement.

## Comments

In the absence of any concerns being expressed as part of the public consultation process, it continues to be the opinion of Administration that the use of the property in the manner proposed results in appropriate development. The planning rationale in support of the proposal was provided in Report DS-2024-27. Accordingly, the following immediate and subsequent actions are recommended in keeping with the process outlined in Report DS-2024-27 and the associated resolution of Council passed at the July 23, 2024, Regular Council Meeting.

## Immediate Actions

The following immediate actions are recommended for Council at the September 10, 2024, Regular Council Meeting:

- 1) **Memorandum of Understanding**: authorize the execution of the Amico Infrastructure Inc. Memorandum of Understanding ("MOU"), dated July 5, 2024, satisfactory in form to the Town's Solicitor (see Attachment 5);
- 2) **Zoning By-law Amendment (first and second reading)**: give first and second reading to the Zoning By-law amendment, with third and final reading withheld pending the execution of a site plan control agreement between the Town and Amico. The zoning by-law amendment will ultimately place the property into a site-specific Agricultural Zone (A-42) zone to permit the site's temporary use as an excess soil reuse site in accordance with Provincial regulations and a passive municipal naturalized recreational area. This will provide Amico with a high degree of certainty with respect to the likely outcome of the rezoning process, while ensuring for the Town that the property is not prematurely zoned without the agreed upon details and obligations being executed and registered on title by way of a site plan agreement, including the requirement for the ultimate

transfer of the land to the Town in an approved form and at no cost to the Town. The finalization (third reading) of the provisional passage (two readings) of the zoning by-law amendment will only occur upon the completion and execution of a site plan control agreement for the property;

- 3) **Site Plan By-law:** adopt a new Town-wide Site Plan Control By-law having the effect of making excess soil site operations subject to site plan control.

## Subsequent Actions

If Council proceeds with the prior actions at the September 10, 2024, Regular Council Meeting, the following items will then need to be completed subsequently to finalize the approval process:

- 1) **Site Plan Control Agreement:** a site plan control agreement will be negotiated and executed between the Town and Amico to ensure the temporary excess soil re-use site is properly managed and operated in accordance with Provincial regulations and that the site ultimately is conveyed in a satisfactory condition to the Town for public use. The agreement will include those terms set out in the MOU and will establish that the transfer of land will be at no cost to the Town and that the land will be improved to an acceptable form (naturalized plantings, gravel multi-use trails, etc.). In accordance with the MOU, AMICO will have 180 days after the date of provisional passage (1st and 2nd readings) of the Zoning By-law amendment to enter into a site plan control agreement;
- 2) **Zoning By-law Amendment (third and final reading):** Upon the execution of a Site Plan Control Agreement, Council would give consideration for third and final reading of the Zoning By-law Amendment;
- 3) **New Fill Permit:** Upon the two proceeding items being completed, the Owner would make application for issuance of a new Fill Permit. The new Fill Permit would establish capacities and attach such other terms and conditions as may be applicable.

## Consultations

Community & Recreation Services  
Public Works & Engineering Services

## Financial Implications

None.

## Link to Strategic Priorities

Applicable	<a href="#">2023-2026 Strategic Priorities</a>
<input checked="" type="checkbox"/>	Sustainable Growth: Achieve prosperity and a livable community through sustainable growth.
<input checked="" type="checkbox"/>	Community Health and Inclusion: Integrate community health and inclusion into our places and spaces and everything we do.
<input type="checkbox"/>	Service Experience: Enhance the experience of Team Tecumseh and our citizens through responsive and respectful service.

## Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

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Reviewed by:

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Reviewed by:

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Director Community & Recreation Services

Reviewed by:

Phil Bartnik, P.Eng.  
Director Public Works & Engineering Services

Reviewed by:

Brian Hillman, MA, MCIP, RPP  
Director Development Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

<b>Attachment Number</b>	<b>Attachment Name</b>
1.	Property Location Map
2.	Official Plan Map
3.	Zoning Map
4.	Preliminary Park Concept Plan
5.	Memorandum of Understanding