



Planning and Development Services

Prepared for: Committee of Adjustment

Meeting Date: May 15, 2025

Application Number: B46/24

Address: 1011 Gilmore Road, Fort Erie

Owner: Magellan Aerospace Limited (Dan Zanatta)

Applicant: Century 21 (Roy Zanatta)

1. Title

Consent Application B46/24 for 1011 Gilmore Road, Fort Erie (Gilmore)

2. Proposal

The purpose and effect of this application is to facilitate the severance of the subject lands for future industrial development. Part 1 on the Consent Sketch is proposed to be severed from Part 2.

Table 1 outlines the lot areas and lot frontages for this proposal based on the submitted Consent Sketch:

Table 1 - Lot Frontages and Lot Areas

Part	Lot Frontage	Lot Area
Severed Lands (Part 1)	+/- 432.51.02 metres	+/- 26.54 hectares
Retained Lands (Part 2)	+/- 767.87 metres	+/- 30.29 hectares

3. Recommendations

That Consent Application B46/24 be **APPROVED**, subject to the following conditions:

1. That the Owner / Applicant's Solicitor and / or Land Surveyor shall provide the Secretary-Treasurer with a legal description of Part 1 and Part 2 to be registered on title together with a draft copy of the reference plan for approval. Upon approval, the Owner / Applicant's Solicitor and / or Land Surveyor shall deposit the approved reference plan and provide an original and digital copy (in AutoCAD .dwg and .PDF format) of the deposited reference

plan, for use in the issuance of the Certificate of Consent.

2. That the Owner / Applicant's Solicitor shall provide the Secretary-Treasurer with a firm Undertaking to register the Transfer and provide a copy of the registered Transfer as soon as possible after registration.
3. That the Owner / Applicant shall pay the Final Certification fee to the satisfaction of the Town's Secretary-Treasurer. The Consent is not considered final prior to final consent certificate being issued.
4. That the Owner / Applicant shall make payment in the amount of \$1,000.00 to the Town of Fort Erie for a boulevard street tree. The Tree will be placed on the road allowance frontage if it is practical to do so, otherwise the tree will be planted elsewhere in the Town to enhance the Tree Canopy Cover.
5. That the Owner / Applicant shall enter into a Development Agreement to be registered on title to Part 1, to address the following items, to the satisfaction of the Town:
 - a. That the Owner / Applicant shall provide documentation to ensure that future development on Part 1 does not interfere with the existing helicopter flight path to 1100 Gilmore Road to the north;
 - b. That the Owner / Applicant shall submit and receive final approval of a Gas Well Study and implement any recommendations, or, verify that any petroleum wells impacting Part 1 are adequately plugged in accordance with Provincial Ministry standards;
 - c. That the Owner / Applicant shall submit and receive final approval of a Stage 1 Archaeological Assessment (and any subsequent Stages, if required) and submit a Ministry Acknowledgement Letter for Part 1;
 - d. That the Owner / Applicant shall dedicate a road widening to the Regional Municipality of Niagara along the frontage of Regional Road 19 prior to the issuance of a building permit, to the satisfaction of the Niagara Region Public Works Growth Management and Planning Division. All costs for providing the necessary survey plan and all related documents are the responsibility of the Owner/Applicant;
 - e. That the Owner / Applicant shall obtain a certificate from an Ontario Land Surveyor stating that all existing and new survey evidence is in place at the completion of the development;
 - f. The Owner / Applicant is advised that if any installation / extension of underground infrastructure (WTM, SAN, STM) within the Town's right-of-way occurs, the Owner / Applicant is required to enter into a Development Servicing Agreement with the Town of Fort Erie, for the design and installation of the mains / sewer, to the satisfaction of the Town. The Owner / Developer shall be responsible for all costs associated with the preparation and registration of the Development Servicing Agreement on title of the lands, permits, approvals, and all associated design, construction, removals, and restoration costs associated;
 - g. That the Owner / Applicant shall submit and receive final approval of a Functional Servicing Report (FSR) identifying the existing services, their size, material, capacity and if they are being proposed for re-use for the development site. Confirmation that sizing, material, location, capacity etc. proposed for re-use are in suitable condition and meet Town standards and requirements. Verification and calculations shall be provided for all servicing and design shall be in accordance with Niagara Region's 2021 Water and Wastewater Master Servicing Plan Update, Volume 3, dated June 22, 2023. The FSR shall also provide all required information and flow rates to confirm downstream sewers have sufficient capacity to receive the additional flows and meet the demands for the proposed development site;

- h. That the Owner / Applicant shall submit and receive final approval of a Site Servicing Plan showing both the existing and proposed site services for water, storm and sanitary. The plan is to include location, size, material, inverts, etc. from the municipal main to the building face for all services;
- i. That the Owner / Applicant shall submit and receive final approval of a Tree Preservation Plan prepared by a qualified arborist in accordance with the Town's (Tree) By-law No. 33-2024, as amended;.
- j. That the Owner / Applicant shall submit a Landscape Plan prepared by a qualified person, OALA in good standing or equivalent, demonstrating the re-planting using compensation ratios per Table B.I of (Tree) By-law No. 33-2024, or payment of cash-in-lieu at the prevailing rate.
- k. That the Owner / Applicant shall, at their own expense, obtain, submit and receive final approval of an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 1, to the satisfaction of the Town.
- l. That the Owner / Applicant shall pay to the Town a cash-in-lieu of parkland dedication, which shall be 2% of the appraised value of the severed lands (Part 1), to the satisfaction of the Town.

3.0 Analysis

3.1. Site Context

The subject lands are located within the Gilmore neighbourhood of the Town of Fort Erie. The subject lands are a through lot with frontage on Gilmore Road and Spears Road North. Part 1 is largely vegetated and vacant with a portion of a former aircraft runway on it. Part 2 contains an existing industrial facility, a portion of a former aircraft runway, and vegetation. Both Part 1 and Part 2 are impacted by natural gas wells. The existing industrial use on Part 2 is intended to remain. The land uses surrounding the subject lands include:

North:	Gilmore Road, Industrial (commercial refueling station and manufacturing plant), Open Space (golf course) and Environmental Protection (wetlands and other Natural Heritage features);
South:	Spears Road North, Industrial (barns and other outbuildings), Residential (non-conforming single detached dwellings) and the Queen Elizabeth Way;
East:	Environmental Protection (wetlands and other Natural Heritage features), Industrial (various uses);
West:	Spears Road North, Queen Elizabeth Way, Open Space (Optimist Park and gun club) and Environmental Protection (wetlands and other Natural Heritage Areas).

3.2. Environmentally Sensitive Areas

Planning staff note that the subject lands are within the Natural Environment System (NES) in the Niagara Official Plan (2024) and are impacted by some Natural Heritage Features, namely the Frenchmans Creek Provincially Significant Wetland Complex, Other Wetlands and potential Other Woodlands. The Town's Official Plan Schedule C1 – Natural Heritage Features identifies Environmental Corridors, Provincially Significant Wetlands and Woodlot Over 2 Hectares on the subject lands. Schedule C1 – Natural Hazards and Fish Habitat identify several watercourses on

the subject lands including Fish Habitat.

Town Environmental Planning Staff have confirmed that the subject lands are impacted by Natural Heritage Features as noted above. An Environmental Impact Study (EIS) was completed in 2019 and mapped out the Natural Heritage features. Environmental Planning staff note that Part 1 does not contain any wetland areas and maintains a minimum buffer of 120.00 metres from all other wetland areas on the subject lands. Environmental Planning staff note that the subject property no longer meets the criteria for a Mineral Deciduous Woodland, as identified in the EIS, and therefore they have no objections to the proposed severance.

The Niagara Peninsula Conservation Authority (NPCA) have confirmed that the subject lands are impacted by NPCA-regulated features, including watercourses and their associated buffers, possible unevaluated wetlands and Provincially Significant Wetlands associated with the Frenchmans Creek Wetland Complex. The NPCA have reviewed the proposed Consent and there are no concerns with respect to Part 1 and NPCA-regulated features. Therefore the NPCA does not have any objections to the proposed severance. Future works will require NPCA review and may also require an NPCA Work Permit.

3.3. Planning Context

Planning Act, R.S.O. 1990, c. P.13

Section 2 of the *Planning Act* requires the Committee of Adjustment to have regard for Provincial interests and the land division criteria outlined in Section 51(24).

The proposal to create one (1) new industrial lot is considered proper and orderly development without the need for a Plan of Subdivision pursuant to Section 51 of the *Planning Act*.

Section 3(5) of the *Planning Act* requires decisions to be consistent with the Provincial Policy Statement and Provincial plans.

Section 53(12) of the *Planning Act* requires that regard be given to the land division criteria under Section 51(24), such as matters of Provincial interest, health and safety, affordable housing, suitability and shape of the lot, roads and access.

The proposed consent application to create one (1) new lot for future industrial development of a promotes the efficient use of land and intensification within the Town's Built Boundary and provision of addition employment uses.

Town's Planning Staff are of the opinion that the proposal conforms to Sections 51 and 53 of the *Planning Act*.

Provincial Planning Statement (PPS), 2024 and Niagara Official Plan (NOP), 2022

The subject property is located within the Settlement Area in accordance with the PPS and the Built-up Area in the NOP. The lands are additionally identified as part of a Dynamic Employment Area (FE-2 International Peace Bridge Trade Hub) in the NOP. The proposed consent application to create one new industrial lot for future development of industrial uses support the Town's intensification targets and represents efficient use of existing municipal infrastructure and underutilized land in the Built-up Area. This proposal will also facilitate future employment

uses in a designated employment area. Therefore, it is the opinion of Planning Services that the proposed lot addition is consistent with the PPS and conforms to the NOP.

Town of Fort Erie Official Plan, 2021

Official Plan Land Use Designations: Environmental Conservation, in part, Environmental Protection, in part, and Industrial, in part.

Part 1 is located in a portion of the subject lands that are designated Industrial. The Industrial land use designation permits a range of industrial uses. Further, the Official Plan permits lot creation in the Urban Boundary that has access to municipal services.

Part 1 and Part 2 are impacted by several petroleum (natural gas) wells. It is noted that Schedule B – Mineral Aggregate and Petroleum Resources in the Official Plan identify the subject lands as being within a Petroleum Resource Area. Planning staff recommend requiring a Development Agreement as a condition of approval to address this.

It is noted that Part 1 is within an area with archaeological potential as identified on Schedule D – Cultural Heritage Archaeological Zones of Potential in the Official Plan. Planning staff recommend requiring a Development Agreement as a condition of approval to address archaeological concerns.

It is the opinion of Planning Services that the proposed Consent maintains the general and intent and purpose of the Town's Official Plan, provided any concerns regarding petroleum wells and archaeological concerns are adequately addressed by the requisite studies.

Comprehensive Zoning By-law No. 129-1990, as amended

Zoning: Environmental Conservation (EC) Overlay Zone, in part, Environmental Protection (EP) Zone, in part, Industrial (IN) Zone, in part, and Prestige Industrial (PI) Zone, in part.

The Industrial (IN) Zone requires a minimum lot frontage of 30.00 metres and a minimum lot area of 0.14 hectares. The Prestige Industrial (PI) Zone requires a minimum lot frontage of 38.00 metres and a minimum lot area of 0.40 hectares.

Planning staff note that the proposed lot frontage and lot area proposed for Part 1 and Part 2 exceed the minimum lot frontage requirements of the Industrial (IN) Zone and the Prestige Industrial (PI) Zone as outlined in Table 1 of this report. Future development on Part 1 will be subject to the permitted uses and regulations of the IN and PI zoning.

It is the opinion of Planning Staff that the proposed Consent complies with the Town's Zoning By-law.

4. Comments from Departments, Community and Corporate Partners

4.1 External Agency Comments

Cogeco and Enbridge

No objections.

Ontario Ministry of Environment, Climate and Parks (MECP)

The MECP notes that the Owner is subject to an active Ministry Order regarding contamination associated with the existing industrial use including groundwater remediation efforts. Long-term monitoring of these efforts will be required for the foreseeable future. The Owner may require access to the severed part for monitoring purposes.

There may be additional Ministry approval requirements, including risk management measures, if the Consent proceeds. No Record of Site Condition (RSC) will be required provided future development is industrial.

Ontario Ministry of Transportation (MTO)

No objection, provided any future driveway entrance to Part 1 maintains a minimum distance of 125.00 metres from Spears Road North.

Niagara Peninsula Conservation Authority (NPCA)

The NPCA notes that the subject lands are impacted by several NPCA-regulated features, including watercourses and their buffers, possible unevaluated wetlands, and the Frenchmans Creek Provincially Significant Wetland Complex and its buffers. The NPCA notes that they have no objection to the proposed Consent as no regulated features, including unevaluated wetlands, impact Part 1.

Niagara Region

Niagara Region has requested several conditions related to engineering and technical matters. It is noted that the Region will request a road widening along Gilmore Road. The Region has requested the following:

1. That the owner dedicate a road widening to the Regional Municipality of Niagara along the frontage of Regional Road 19 prior to the issuance of a building permit, to the satisfaction of the Niagara Region Public Works Growth Management and Planning Division. All costs for providing the necessary survey plan and all related documents are the responsibility of the applicant.
2. The owner is advised that the proposed development does not meet Niagara Region's waste collection requirements and this service will be the responsibility of the owner through a private contractor and not the Niagara Region.
3. The agreement between the owner and the Town contain a provision whereby the owner agrees to obtain a certificate from an Ontario Land Surveyor stating that all existing and new

survey evidence is in place at the completion of the development.

Staff Response

Planning staff have implemented these requests as part of a condition requiring a Development Agreement for Part 1.

4.2 Town Staff Comments

Building Division, Fort Erie Fire Department, Landscape Architect

No objections.

Community Planning

That the Owner/Applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 1, to the satisfaction of the Town; and that the Owner/Applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 2% of the appraised value of Part 1.

Staff Response

An appraisal and payment of 2% cash-in-lieu of parkland dedication for Part 1 are included as conditions of approval for this Consent application.

Development Engineering

Gilmore Road is designated a Regional road as per Town's current Official Plan. Any widenings or other requirements will be at the Region's discretion.

Spears Road North is designated as a Local road as per the Town's current Official Plan, with a desired right-of-way width of 20.0m. Its current width is 20.0m, therefore a road widening will not be required as a condition of this consent application.

The subject lands have access to Town municipal services (water and sanitary sewer).

The following conditions are requested:

1. Please be advised that any installation/extension of underground infrastructure (WTM, SAN, STM) within the Town's right-of-way will require a Development Servicing Agreement be entered into, with the Town of Fort Erie, for the design and installation of the mains/sewer, to the satisfaction of the Town. The Owner/Developer shall be responsible for all costs associated with the preparation and registration of the Development Servicing Agreement on title of the lands, permits, approvals, and all associated design, construction, removals, and restoration costs associated, as a condition of severance.
2. Town staff will require a Functional Servicing Report (FSR) identifying the existing services, their size, material, capacity and if they are being proposed for re-use for the development site. Confirmation is required that sizing, material, location, capacity etc. proposed for re-use are in suitable condition and meet Town standards and requirements. Verification and

calculations shall be provided for all servicing and design shall be in accordance with Niagara Region's 2021 Water and Wastewater Master Servicing Plan Update, Volume 3, dated June 22, 2023. The FSR shall also provide all required information and flow rates to confirm downstream sewers have sufficient capacity to receive the additional flows and meet the demands for the proposed development site.

3. Town staff will require a Site Servicing Plan showing both the existing and proposed site services for water, storm and sanitary. The plan is to include location, size, material, inverts, etc. from the municipal main to the building face for all services.

Staff Response

Planning staff have implemented these requests as part of a condition requiring a Development Agreement for Part 1.

Environmental Planning

The subject lands are located within the Town's Urban Boundary. There are Natural Heritage features present, including a Provincially Significant Wetland in the eastern portion of the lands and an unevaluated wetland that was identified in an Environmental Impact Study prepared by Ecological and Environmental Solutions (2019). The proposed severance does not cross through either wetland and is located over 120m from each identified wetland. At the time the Environmental Impact Study was completed the Ecological Land Classification identified a Mineral Deciduous Woodland and a Mineral Deciduous Thicket, however since the time the EIS was completed there were several trees removed, (with permission from the Town of Fort Erie) and the land classification would no longer meet the definition of a Mineral Deciduous Woodland. As such, environmental planning staff have no objections to the proposed severance.

The subject lands are subject to the Town's Tree By-law 33-2024. If any trees over 10cm DBH are proposed to be removed from the lands, the subsequent removal application must be accompanied by a Tree Protection Plan, an Arborist report (ISA Certified Arborist or per the Town's definition in the By-law) and a Landscape Plan (GALA in good standing).

Town staff request a Tree Protection Plan as it is unclear as to whether trees will be required to be removed or if there are tree roots that may be impacted by construction that may need protection from Tree Protection Fencing.

Conditions:

1. That the owner/applicant submit a Tree Preservation Plan prepared by a qualified arborist in accordance with the Town's (Tree) By-law No. 33-2024, as amended, to the satisfaction of the Town.
2. That the owner/applicant submit a Landscape Plan prepared by a qualified person, GALA in good standing or equivalent, demonstrating the re-planting using compensation ratios per Table B.I of (Tree) By-law No. 33-2024, or payment of cash-in-lieu at the prevailing rate, to the satisfaction of the Town.
3. That the Applicant/Owner make payment in the amount of \$1,000.00 to the Town of Fort Erie

for a boulevard street tree. The Tree will be placed on the road allowance frontage if it is practical to do so, otherwise the tree will be planted elsewhere in the Town to enhance the Tree Canopy Cover.

Per the Council Approved 2025 Consolidated Schedule of Fees, the following fees will apply to this application:

Tree Protection Plan Review Fee - \$500 and any compensation requirements per Table B-I of By-law 33- 2024.

Staff Response

Planning staff have implemented the requests for a Tree Protection Plan and a Landscape Plan as part of a condition requiring a Development Agreement for Part 1. These items are a bit premature at this stage as there are no development plans available for Part 1 at this time. Payment of \$1,000.00 for a street tree has been added as a condition of approval of this Consent.

Infrastructure Services

Please be advised that the Gilmore Road sanitary sewer has limited capacity. A Functional Servicing Report (FSR) will be needed with any site plan or building permit application on the subject lands so that we can evaluate impacts to municipal infrastructure.

The Town will have more information on available sewer capacity as we complete the wastewater masterplan in 2026.

No specific comments or objections to the proposed consent.

Staff Response

Planning Staff note that Development Engineering Staff have requested an FSR. It will be required as part of a Development Agreement for Part 1.

4.3 Public Comments

At the time of the writing of this report written comments were submitted by two members of the public. One requested that they be notified of all updates of this proposal. A letter was also submitted by another industrial use in the area, Airbus Helicopters Canada, located at 1100 Gilmore Road. Planning staff will address this letter below.

1100 Gilmore Road

Airbus Helicopters Canada does not object to the proposed severance but notes that Part 1 and Part 2 are impacted by a helicopter flight path. The letter states that the flight path cannot be modified. The flight path may impact the subject lands with noise and potentially building height.

Staff Response

Planning staff recommend a Development Agreement with the Town for Part 1 to ensure there are no issues with future development and the existing flight path.

5. Conclusion

Based on the above analysis, Planning Services Staff recommend **APPROVAL** of Consent Application B46/24, subject to the recommended conditions.

6. Report Approval

Prepared by:
Daryl Vander Veen
Intermediate Development Planner

Reviewed and Submitted by:
Devon Morton, MCIP, RPP
Supervisor of Development Approvals

7. Attachments

Appendix 1 – Consent Sketch