



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 226-2002

**BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF A
CONDITIONAL BUILDING PERMIT AGREEMENT FOR PROPERTY
LOCATED AT 1360 COMMERCE PARKWAY 1527039 ONTARIO
INC. (AERO SAFE TECHNOLOGIES INC.)**

(350101)

WHEREAS the *Building Code Act*, 1992 establishes the rules and regulations for building in Ontario, and

WHEREAS Section 3 of the said *Act* provides the council of each municipality is responsible for the enforcement of this *Act* in the municipality and the council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of this *Act*, and

WHEREAS Section 8(2) of the said *Act* requires the chief building official to issue a permit under subsection (1) subject to the exceptions stated therein, and

WHEREAS Section 8(3) of the said *Act* provides even though all requirements have not been met, to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction subject to the provisions set out therein as follows:

- (a) compliance with by-laws passed under Sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;
- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and
- (c) the applicant and such other persons as the chief building official determines agree in writing with the municipality to do certain things as set out therein, and

WHEREAS Section 8(4) of the said *Act* provides in considering whether a conditional permit should be granted, the chief building official shall, among other matters, have regard to the potential difficulty in restoring the site to its original state and use if required approvals are not obtained, and

WHEREAS it is deemed desirable to issue a conditional building permit to 1527039 Ontario Inc. in order to accelerate development;

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NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Conditional Building Permit Agreement annexed hereto to this by-law as Schedule "A" in order to effect the Conditional Building Permit with 1527039 Ontario Inc. for the lands described therein.
2. **THAT** pursuant to the provisions of Section 102.1 of the *Municipal Act* should any minor amendments to the Conditional Building Permit Agreement of an administrative, typographical, grammatical or descriptive nature be required to effect the intent of this by-law and the Conditional Building Permit Agreement herein the Clerk of the Town of Fort Erie is hereby authorized to effect the same.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 12th DAY OF NOVEMBER, 2002.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 226-2002 of the said Town. Given under my hand and the seal of the said Corporation this day of , 2 .

CONDITIONAL BUILDING PERMIT AGREEMENT

under Section 8 of the Building Code Act, 1992, as amended, made in triplicate this ^{JK 13th} ~~29th~~ day of ~~October~~, 2002.

November

BETWEEN:

1527039 ONTARIO INC.

Hereinafter called the "Owner" OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF FORT ERIE

Hereinafter called the "Town" OF THE SECOND PART

WHEREAS the Owner has requested a conditional building permit from the Town prior to meeting all requirements to obtain a building permit pursuant to Section 8(2) of the Ontario Building Code Act, 1992, as amended;

AND WHEREAS the Chief Building Official of the Town is satisfied that meeting such requirements would unreasonably delay the subject construction;

AND WHEREAS the Chief Building Official of the Town considers the restoration of the site to be feasible in the event that all the necessary approvals are not obtained;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereby agree one with the other as follows:

1. The lands affected by this Agreement (hereinafter referred to as the "subject lands") are set out in Schedule "1" attached hereto and forming part of this Agreement.
2. The construction permitted by this Agreement (hereinafter referred to as the "subject construction") shall be limited to footings, foundation and structural shell as identified and described in the Drawings filed by the Owner with the Town as described in a conditional permit application filed with the Town and annexed hereto as Schedule "3". The subject lands are those lands described in the said permit application and referred to in paragraph 1 of this Agreement.

3. The Town agrees to issue a Conditional Building Permit for the subject construction to be erected on the subject lands provided that the Owner agrees to assume all risks involved in commencing construction before every requirement for a building permit has been met, and to this end hereby indemnifies and saves harmless the Town from and against all claims arising from the issuance of the conditional building permit.

4. The Owner hereby agrees:

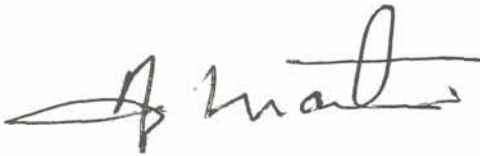
- (a) to obtain all approvals prerequisite to the issuance of a building permit by the date specified in Column 2 of Schedule "2" attached hereto, or if no date is specified as soon as practicable;
- (b) to file any required plans and specifications of the complete building by the date set out in Column 3 of Schedule "2" attached hereto;
- (c) to stop the subject construction and secure the site to the satisfaction of the Chief Building Official of the Town if, in the opinion of the Chief Building Official, any impediment arises to prevent the lawful continuation of the subject construction or if an appeal is filed with the Ontario Municipal Board with respect to a minor variance that is required for the lawful erection of the subject construction;
- (d) to remove the building and restore the site if plans and specifications are not filed or approvals have not been obtained as set out herein;
- (e) to comply with all development standards and site plan requirements that are applicable to the subject lands, including but not limited to site servicing, tree protection, fire protection and storm water management;
- (f) to provide and maintain access for emergency vehicles and water supply to the satisfaction of the Fire Department of the Town; and
- (g) without limiting the generality of the forgoing, to meet any specific conditions that are set out in Schedule "1" to this Agreement.

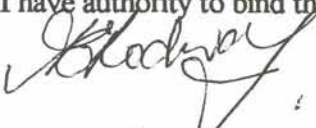
5. The site restoration referred to in this Agreement shall be to the conditions present at the time of permit application and shall include the removal of all construction, the replacement of all vegetative matter, the stabilization of slopes and the restoration of drainage patterns. Restoration must seriously commence within thirty (30) days of the date cited in paragraph 4 or as otherwise directed by the Chief Building Official of the Town.

6. If the Chief Building Official of the Town determines that a building has not been removed or a site restored as required by this Agreement, the Chief Building Official may cause the building to be removed and the site restored and for this purpose the Chief Building Official, an Inspector and their agents may enter upon the land and into the building governed by this Agreement at any reasonable time without a warrant.
7.
 - (a) The Owner agrees to deliver security or securities to the satisfaction of the Chief Building Official of the Town and if same shall be a letter of credit, it shall be in the Town's standard form, such securities to be in the amount of not less than 15% of the project cost as shown in Column 4 of Schedule "2" attached hereto;
 - (b) If the Chief Building Official of the Town determines that a building has not been removed or a site restored as required by this Agreement the security or securities may be drawn upon in full and the monies used to restore the site as provided for in paragraph 5;
 - (c) Should there be full compliance with the Agreement, the security or securities shall be returned to the Owner at the address provided on the application for building permit;
 - (d) Should costs associated with the restoration of the site be incurred by the Town in excess of the amount of the security or securities, the Town shall have a lien on the land for such amount and the amount shall be deemed to be municipal taxes and may be collected in the same manner and with the same priorities as municipal taxes.
8.
 - (a) This Agreement shall be registered against the subject lands and the Town shall be entitled to enforce its provisions against the Owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of the subject lands;
 - (b) The Owner agrees to pay all registration and administration costs incurred by the Town at the time of execution of this Agreement;
 - (c) The Owner consents and agrees to the Town inserting a registerable description in order to register the agreement on title.
9. This Agreement shall expire upon issuance of a "regular" building permit and may be removed from title at the Owner's expense by contacting the Chief Building Official.

IN WITNESS WHEREOF the Parties hereto have caused their corporate seals to be hereunto affixed attested by the proper officers in that behalf and the individual parties have hereunto set their hands and seals.

SIGNED, SEALED AND
DELIVERED in the
presence of:




) 1527039 ONTARIO INC.
)
)
) Name: A.E. Rodway
) Title: President
) Authority if Corporation:
) I have authority to bind the Corporation
) 
)
) Name: ANT
) Title:
) Authority if Corporation:
) I have authority to bind the Corporation
)
)

) THE CORPORATION OF THE TOWN
) OF FORT ERIE
)
)

) 
) Mayor

) 
) Clerk

) 
) John Castrilli, CET, CBCO
) Chief Building Official

NOTE: Authorized officers must sign for corporate parties and state their full names and corporate seals must be affixed.

SCHEDULE "1"

Description of lands)	Being Part of Lot 6, Concession 5
taken from Deed, together)	Niagara River in the former Township
with copy of Reference)	of Bertie now in the Town of Fort Erie
Plan. If property is)	in the Regional Municipality of Niagara
described by boundaries)	designated as Parts 6 and 7 on
Instrument Number of)	Reference Plan No. 59R-11780.
Deed to registered Owner)	
<u>must</u> be provided)	

ADDITIONAL SPECIFIC CONDITIONS

The Owner hereby agrees: NOT APPLICABLE

SCHEDULE "2"

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Application	Date by which to Obtain Approvals	Date by which to File Plans	Amount of Security (State Type)
Application for Structural Shell Footings and Foundation Permit Received October 7, 2002	Site Plan – November 29, 2002, or ASAP Storm Water Management Report – MOE Approval - November 29, 2002 or ASAP	Prior to execution of Agreement	\$20,000.00 Certified Cheque



APPLICATION FOR PERMIT



OCT 07 2002

- ☒ BUILDING
☐ PLUMBING
☐ SEWER
☐ OTHER
☐ ROLL #

STRUCTURAL SHELL, FOOTINGS
+ FOUNDATION ONLY

TO THE CHIEF BUILDING OFFICIAL

The undersigned hereby applies for permit to build in accordance with plans and other information submitted with this application.

1. Location (site) of work, address 1360 COMMERCE COURT Corner Lot Yes ☐ No ☒
Lot No. _____ Plan No. _____ Roll No. _____
2. Owner: HERO-SAFE PROCESSING INC. Address: 1776 PETIT RD. Phone: 905-871-1663
Fax: _____
3. Applicant: HEINZ K. HUMMEL, AGENT Address: 1345 ORCHARD RD. Phone: 905-871-4488
Fax: _____
4. General Contractor: HERO-SAFE PROCESSING INC. Address: AS ABOVE Phone: _____
Fax: _____
5. Architect/Engineer(s): TIMBRO GROUP, WELLAND
(Additional information required on commitment form)

LAND USE INFORMATION

6. Land Use: Residential ☐ Commercial ☐ Industrial ☒ Institutional ☐ Other ☐
7. Is there an existing building on the lot? Yes ☐ No ☒ If yes, what is the use of the building? _____
8. Does the building affected by this application, have multiple or mixed occupancies, i.e. Apartments, Stores, etc., if so, please explain N/A.

BUILDING PERMIT INFORMATION

9. Application is made for: New construction ☒ Addition ☐ Alteration ☐ Repair ☐ Other ☒ *FOUNDATION ONLY*
10. Brief description of work: PRE-FAB STEEL BUILDING Value of Construction: \$ 400,000
11. Proposed use of Building or Addition: PROCESSING FACILITY
12. Size of proposed Building: _____ ft. x _____ ft. = 7940 sq.ft. Height/Stories ONE (1) Lot size _____ ft. x _____ ft.
13. Size of Proposed Garage: Number of Cars 1
14. Ontario New Home Warranty Program registration number (new houses only) _____ (Declaration form required to be completed)
15. Septic system required? Yes ☐ No ☒ If Yes, obtain a permit application form.
16. Type of Heating system? Forced air gas ☒ Hot water ☐ Electric ☐ Other ☐

GENERAL INFORMATION

17. Is the property affected by any easement(s) or encumbrance(s)? Yes ☒ No ☐ If yes, provide details on plot plan.
18. Is the property designated as historic under the Heritage Act? Yes ☐ No ☒
19. Are the sidewalks in front of the proposed development presently damaged? Yes ☐ No ☒
20. Is the property subject to a: Land Severance ☐ Rezoning ☐ Minor Variance ☐ Other ☐
21. Zoning of property is _____ Does this proposal comply with Zoning By-law 129-90? Yes ☒ No ☐

PLUMBING PERMIT INFORMATION

Estimated Cost \$

22. Application is made for: New Plumbing ☐ Number of fixtures _____
 New Sewer ☐ Length of Sewer _____ Ft. Location of Sewer _____
 New Water Service ☐ Length of Service _____ Ft. Type of Material _____
 Repair ☐ Provide details: _____
 Other ☐ Provide details: _____

23. Plumbing contractor _____ Address: _____ Phone _____

24. Is Plumbing contractor a Licensed Master Plumber with Town of Fort Erie? Yes ☐ No ☐

DECLARATION

25. I (please print name) HEINZ K. HIMMEL am the owner/authorized agent of the owner and
 hereby declare that the information herein and attached is true and correct. Signature: [Signature]

10/7/2002

OFFICE USE ONLY

Remarks: _____

Accepted by Chief Building Official, per: _____

Date: _____

OTHER AUTHORITIES/APPROVALS REQUIRED**OFFICE USE ONLY**

Source

Required

Received

Initials

1. Fire Prevention
2. Ontario Fire Marshall (Ministry of Solicitor General)
3. Committee of Adjustment
4. Site Plan Approval
5. Land Division Committee
6. Niagara Regional Health Unit
7. Regional Government
8. Ministry of Transportation (MTO)
9. Ministry of Environment and Energy (MOE)
10. Ministry of Labour
11. Niagara Park Commission
12. Niagara Peninsula Conservation Authority (NPCA)
13. LACAC
14. Liquor License Board (LLBO)
15. Other (Specify)