

Staff Report

Report To: City Council
Report From: Jacklyn Iezzi, Manager of Planning & Heritage
Meeting Date: September 14, 2026
Report Code: CS-26-080
Subject: Limiting Distance Agreement – 1043 and 1057 3rd Avenue East – St. Clare Place

Recommendations:

THAT in consideration of Staff Report CS-26-080 respecting a Limiting Distance Agreement between the owners of 1043 and 1057 3rd Avenue East, the owners of 320 10th Street East, and the City of Owen Sound, City Council directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute the Limiting Distance Agreement as outlined in the report.

Highlights:

- In May of 2023, City Council set the policy context for the development of 1043 and 1057 3rd Avenue East for a six-storey mixed use development with 40 affordable rental units, together with a commercial space on the ground floor, through the approval of Zoning By-law Amendment No. 46. ZBA 46 had the effect of providing, among other matters, a 0-metre interior side yard setback of the proposed building on the southern lot line.
- The development received conditional site plan approval on November 8, 2023 (City File No. ST2023-003).
- Conditions of site plan approval require, among other matters, that fire dampers be installed on all south facing windows or, that a Limiting Distance Agreement be executed between the owner of 1043 and 1057 3rd Avenue East, the owner of 320 10th Street East,

and the City, in accordance with the requirements of the Ontario Building Code (OBC).

- The applicant's solicitor has prepared the required Limiting Distance Agreement.
- It is recommended that City Council execute the agreement and direct staff to register it on title of the properties, as required by the OBC.

Vision 2050 - Strategic Plan Alignment:

[Strategic Plan](#) Priority: The recommendation contributes to core service delivery or a corporate initiative that enables service delivery for one or more strategic priorities.

Previous Report/Authority:

Report [CS-23-064](#) – Recommendation Report – ZBA No. 46 – 1043 and 1057 3rd Avenue East (St. Clare Place)

Report DA-23-005 – Site Plan Approval for 1043 and 1057 3rd Avenue East

Background:

On May 29, 2023, City Council approved a Zoning By-law Amendment (ZBA No. 46) by Lutheran Outreach Ministries to facilitate the development of lands municipally known as 1043 and 1057 3rd Avenue East for a six-storey mixed use development with 40 affordable rental units, together with a commercial space on the ground floor. The subject lands are located on the east side of 3rd Avenue East, approximately 108 metres north of the intersection at 10th Street East, within the City's River District.

ZBA 46 had the effect of providing, among other matters, a 0-metre interior side yard setback of the proposed building on the southern lot line.

On November 8, 2023, conditional site plan approval (City File No. ST2023-003) was granted for the development. The approved site plan has been attached to the report. As shown, the proposed building is located with a 0-metre interior side yard setback on the southern side, as established through ZBA No. 46. The southern façade of the building is proposed to have window openings.

Due to the proximity of the building to the southern interior side lot line together with the proposed window openings on the south façade, the Ontario Building Code (OBC) would require that 100 per cent of the openings be protected by means of a closure such as fire dampers or fire rated glazing. Alternatively, Article 3.2.3.1 of the OBC allows the property owners and the City to enter into a Limiting Distance Agreement to allow for the limiting distance to be measured to an imaginary line on the adjacent property for the purpose of determining the allowable unprotected openings, instead of the property boundary line. The intent of a Limiting Distance Agreement is to restrict any future buildings to be constructed closer to the property boundary line than the limiting distance.

Conditions of Site Plan Approval for ST2023-001 require, among other matters that fire dampers be installed on all south facing windows or, that a Limiting Distance Agreement be executed between the owner of 1043 and 1057 3rd Avenue East, the owner of 320 10th Street East, and the City, in accordance with the requirements of the OBC.

Due to the significant cost that the use of fire dampers or fire rated glazing would add to the project, the Owner, together with their consultant and solicitor, have prepared a Limiting Distance Agreement in fulfilment of the conditions of site plan approval and in accordance with the OBC.

The purpose of this report is to provide context to the requirement for the Limiting Distance Agreement so that it may be executed by Council and registered on title of 1043 and 1057 3rd Avenue East and 320 10th Street East, in accordance with the requirements of the OBC.

Analysis and Options:

The Limiting Distance Agreement has been drafted by the applicant's solicitor.

The agreement is between Lutheran Social Services (Owen Sound), Lutheran Outreach Ministries, Owen Sound, and the City of Owen Sound. It establishes a protected limiting-distance area between St. Francis' Place (320 10th Street East) and St. Clare Place (1043 and 1057 3rd Avenue East) to support the proposed six-storey mixed use development and meet OBC requirements.

The Agreement requires that the property owners must not construct structures within the designated area and must keep it level and clear of obstructions to maintain emergency-service access. The agreement also establishes the applicable limiting-distance lines for future construction and unprotected openings. Once registered on title, its obligations run with both properties, bind successors and assigns, require City consent for amendments, and include indemnification protection for the City.

The agreement has been reviewed by Planning and Heritage Division staff, the Chief Building Official, and the City's Manager of Legislative Services and is acceptable.

The agreement provides for a limiting distance of six (6) metres, south of the proposed six-storey apartment building and onto lands municipally known as 320 10th Street East. No buildings or structure may be constructed within this limiting distance. This area is proposed to be used for a row of ten (10) parking stalls, including two (2) accessible stalls and a pedestrian sidewalk in accordance with the approved Site Plan, which is permitted by the OBC.

It is recommended that staff be directed to bring forward a by-law to have the Mayor and Clerk execute the agreement on behalf of the City.

Following execution of the agreement, staff will proceed with registration of the agreement on title of 1043 and 1057 3rd Avenue East and 320 10th Street East, consistent with the terms of the agreement.

Resource Alignment:

Financial Resources

There has been no cost to the City to draft the agreement. There may be a minor fee incurred to register the agreement on title.

Human Resources

The Planning and Heritage Division has been actively working with the applicant to fulfill conditions of site plan approval.

Time and Scheduling

City staff will register the agreement on title of 1043 and 1057 3rd Avenue East and 320 10th Street East, following execution of the agreement by the Mayor and Clerk and provide a copy of the executed agreement to each property owner.

The execution of the Limiting Distance Agreement represents one of the final matters to be addressed in accordance with the conditions of Site Plan Approval.

Foundation-only permits have been issued by the City's Building Division as of August 18, 2026, to facilitate construction of the development.

Technology and Infrastructure

N/A.

Climate and Environmental Impacts:

There are no anticipated climate or environmental impacts.

Communication and Engagement:

City Planning staff have been in contact with the applicant throughout the process of fulfilling conditions of site plan approval.

The Zoning By-law Amendment process included public notice and a public meeting, in accordance with the requirements of the *Planning Act*.

Report Developed in Consultation With:

- Kevin Linthorne, Chief Building Official
- Kayla Hyndman, Deputy Chief Building Official
- Kristen Van Alphen, Manager of Legislative Services

Attachments:

Approved Site Plan for ST2023-003

Reviewed by:

Pamela Coulter, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Jacklyn Iezzi, Manager of Planning & Heritage at planning@owensound.ca or 519-376-4440 ext. 1261.