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<b>TO:</b>	<b>GENERAL COMMITTEE</b>
<b>SUBJECT:</b>	<b>LIMITING DISTANCE AGREEMENT FOR 678 VETERAN'S DRIVE AND FUTURE LIMITING DISTANCE AGREEMENTS UNDER THE ONTARIO BUILDING CODE</b>
<b>WARD:</b>	<b>ALL</b>
<b>PREPARED BY AND KEY CONTACT:</b>	<b>C. PACKHAM, LEGAL COUNSEL EXTENSION # 4511</b>
<b>SUBMITTED BY:</b>	<b>I. PETERS, DIRECTOR OF LEGAL SERVICES  M. JANOTTA, CHIEF BUILDING OFFICIAL</b>
<b>GENERAL MANAGER APPROVAL:</b>	<b>A. MILLER, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT</b>
<b>CHIEF ADMINISTRATIVE OFFICER APPROVAL:</b>	<b>M. PROWSE, CHIEF ADMINISTRATIVE OFFICER</b>

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#### **RECOMMENDED MOTION**

1. That the General Manager of Infrastructure and Growth Management be authorized to complete a Limiting Distance (LD) Agreement pursuant to Section 3.2.3.1(11)(a) of Division B of the Ontario Building Code, O.Reg 332/12 (the "Code") between the City and Garden Village Commercial Limited ("Garden Village") for property located at 678 Veteran's Drive ("678 Veteran's Agreement") subject to the approval of the Chief Building Official and in a form approved by the Director of Legal Services.
2. That the Mayor and Clerk be authorized to execute the 678 Veteran's Agreement on behalf of the City as the abutting landowner.
3. That the Chief Building Official to authorized to execute the 678 Veteran's Agreement on behalf of the City as the approval authority.
4. That the Chief Building Official be authorized to complete and/or approve future LD Agreements under the Code between various private property owners and, from time-to-time, future LD Agreements between other private property owners and the City future LD Agreements, in a form approved by the Director of Legal Services.
5. That the Mayor and Clerk be authorized to execute future LD Agreements on behalf of the City as abutting landowner where applicable, and for the Chief Building Official to execute future LD Agreements on behalf of the City as the approval authority.

#### **PURPOSE & BACKGROUND**

6. There are two primary objectives of this report:
  - a) To authorize staff to complete and enter into a Limiting Distance Agreement under Section 3.2.3.1(11)(a) of the Code for property located at 678 Veteran's Drive, which is adjacent to a City owned storm water management facility; and

- b) To authorize staff to complete and enter into future Limiting Distance Agreements under Section 3.2.3.1(11)(a) of the Code to enforce the provisions of the Code amongst private property owners and, where applicable, between the City and private property Owners where the City owns abutting lands.

#### Section 3.2.3.1 of Division B of the Code

- 7. The purpose of Section 3.2.3.1 is mainly to impose restrictions intended to prevent or restrict the spread of fire from a building on one property to a building on the adjacent lands.
- 8. Section 3.2.3.1 of Division B of the Code restricts the distance permitted between unprotected openings in an exposing building face and the property line. The Code provides a formula for determining how many unprotected openings are permitted within a certain distance of the property line. Where too many openings exist based on a specific siting of the building, the Code allows the line used for determining the amount of openings to be moved further from the exposing building face in question to allow additional openings.
- 9. In order to permit the construction of a proposed building that has a deficient limiting distance (ie, the proposed location of the building is too close to the property line) the Code allows that the owner of the lands on which the proposed building is to be located enter into an Agreement with the adjacent property owner and the Municipality. Essentially the Agreement moves the location of the property line for the purposes of determining the limiting distance. The Agreement will establish a point past the property line (for the proposed construction) which becomes the new limiting distance measurement for the purposes of permitting construction of the proposed building. This also affects other buildings on the adjacent property as their limiting distance becomes decreased.

#### 678 Veteran's Drive

- 10. Garden Village, the owner of 678 Veteran's Drive, has erected a commercial building and is seeking final occupancy approval. The owner is choosing to enter into a limiting distance agreement rather than provide fire shutters (on the offending windows) as per the reviewed building permit drawings.
- 11. 678 Veteran's Drive is located immediately adjacent to a City-owned storm water management facility. In order for Garden Village to obtain occupancy, they have requested to enter into a Limiting Distance Agreement with the City. The City is required to be a party to the 678 Veteran's Agreement both as the adjacent property owner and as the approval authority responsible for issuing a building permit.

### **ANALYSIS**

#### Limiting Distance Agreements Generally

- 12. Future LD Agreements will allow for construction in accordance with the Code while ensuring the City has the proper enforcement mechanism and contractual protections.
- 13. Future LD Agreements will also, where applicable, ensure that the City has a mechanism to permit construction on lands adjacent to City property with a deficient limiting distance while protecting the City's interests in its property.
- 14. It is anticipated that Future LD Agreements will contain the following provisions:
  - a) An acknowledgment that both property owners will acknowledge the limiting distance measurement be applicable to the two properties for the purposes of the spatial separation requirements in the Code;

- b) That the abutting landowner will not construct a building within the limiting distance measurement established in the agreement.
- c) That no construction on either property will take place unless done so using the limiting distance measurement set out in the applicable agreement for the purposes of the Code;
- d) All openings in exposing building faces in any buildings constructed on the owner's lands shall be constructed in compliance with the Code and the agreement;
- e) That the City be indemnified for any liability arising out of each agreement, whether solely between private property owners or with the City as an owner;
- f) That each agreement may only be removed from title on the consent of the City; and
- g) The owner requesting the agreement shall be responsible for all costs associated with the preparation and administration of the agreement.

#### 678 Veteran's Drive

- 15. The 678 Veteran's Drive Agreement will include the provisions set out above and ensure that the City receives appropriate contractual protection related to permitting construction on 678 Veteran's Drive within a limiting distance measured in accordance with the Code.
- 16. As the abutting City lands currently contain a storm water management pond, there is little concern with respect to permitting the limiting distance measurement as it is unlikely a building will ever be constructed within the limiting distance, as set out in the 678 Veteran's Agreement, in the future.

#### **ENVIRONMENTAL MATTERS**

- 17. There are no environmental matters related to the recommendation.

#### **ALTERNATIVES**

- 18. The following alternative is available for consideration by General Committee:

**Alternative #1** General Committee could choose not to authorize staff to finalize and arrange for the execution of a Limiting Distance Agreement for 678 Veteran's Agreement, or for Future Limiting Distance Agreements.

This alternative is not recommended as the 678 Veteran's Agreement is desirable in order to implement the provisions of the Code and to permit construction and development on 678 Veteran's Drive. Additionally, Future LD Agreements will permit similar construction where deemed appropriate by the Chief Building Official and will better able the City to implement and enforce the provisions of the Code. .

#### **FINANCIAL**

- 19. There are no financial matters related to the recommended motion.



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**LINKAGE TO 2018-2022 COUNCIL STRATEGIC PLAN**

20. The recommendation included in this Staff Report support the following goals identified in the 2018-2022 City Council Strategic Plan:

☒ Building Strong Neighbourhoods.