Request for Decision

Title	**Encroachment of Fence onto Sturgeon County Utility Right of Way Within Riverstone Pointe Subdivision**
Motion	That Council direct Administration to enter into an Encroachment Agreement with the landowners of Lot 36, Block 2, Plan 022 7133 to allow a fence to remain within the Utility Right-of-Way Plan 782 1391.
Administrative Recommendation	That Council direct Administration to prepare an Encroachment Agreement to be entered into with the landowners of Lot 36, Block 2, Plan 022 7133 to allow a fence to remain within Sturgeon County's Utility Right-of-Way Plan 782 1391.
Previous Council Direction	April 12, 2016 – Motion 115/16 That Council approves Policy # ply_P&D_Encroachment_Agreement_2016.
Report	• A Real Property Report was received by the County on May 10, 2016 requesting a Certificate of Compliance. • The file (C-44-2016) was reviewed and it was noted that the fence encroaches up to 1.20m and for a distance of ±81.5m into Utility right-of-Way Plan 782 1391. Given the area involved, i.e. ±93.7m², this encroachment is considered a major encroachment in terms of Policy ply_P&D_EncroachmentAgreement. • The Real Property Report was referred to Engineering Services to provide comment. After review, they commented that an encroachment agreement could be entered into to allow the fence to remain. • Planning and Development issued a letter of non-compliance outlining the direction from Engineering Services. • Application and payment for an encroachment agreement was received on June 13, 2016. • Encroachment agreements are registered on title and follow the lands. They are not taxable. External Communication • N/A

	Relevant Policy/Legislation/Practices:
	Land Titles Act
	• Encroachment agreement 72(1) states:

An encroachment agreement executed by the registered owner of a parcel of land to permit the encroachment of improvements made on an adjoining parcel of land
    (a) may be registered against the parcels of land affected by that agreement, and
    (b) after registration shall be binding on and ensures to the benefit of all persons subsequently acquiring interests in the parcels of land affected by that agreement to the same extent as if it were an easement.

• Sturgeon County Policy Number ply_P&D_Encroachment Agreement states that *Sturgeon County may consider entering into an Encroachment Agreement with a landowner who has constructed a private structure or landscaping improvement which encroaches onto adjoining land owned by or under the direction, control and management of the County.*

• Current Sturgeon County Policy Encroachment Agreement also states that *County Council to decide on applications for a proposed Encroachment Agreement for <u>major</u> encroachments*.

Implication	Strategic Alignment:

Strong Local Governance and Regional Leadership – Allowing for the encroachment to remain pursuant to entering into an encroachment agreement is consistent with other approved encroachment agreements of a similar scope.

Organizational:

None of significance. The County reserves the right to request removal or remove the encroachment, if required, and that all associated costs shall be borne by the landowner.

Financial:

None

Alternatives Considered	1. That Council refuse the application for an Encroachment Agreement and direct Administration to instruct the landowner to remove the fence encroachment from Utility Right-of-Way Plan 782 1391.

Implications of Alternatives	Strategic Alignment:
	Strong Local Governance and Regional Leadership – Existing Policy suggests that Council has the option to grant Encroachment Agreements, but is not obligated to do so. Council not supporting the agreement with the appropriate justification to do so would still be considered an action supporting strong local governance.
	Organizational:
	Requiring removal of the encroaching structure could become an enforcement issue and require significant resource investment.
	Financial:
	Possible enforcement, legal action, and remediation to ensure the removal of the encroachment may be expensive. Further, all the man hours and staff time for site visits and enforcement administration will be costly.
Follow up Action	Planning and Development to act in accordance with Council's decision.
Attachment (s)	1. Real Property Report 2. Photos 3. Encroachment Agreement Policy
Report Reviewed by:	Clayton Kittlitz, Acting General Manager of Integrated Growth Peter Tarnawsky, County Commissioner – CAO

Strategic Alignment Checklist

Vision: *Sturgeon County: a diverse, active community that pioneers opportunities and promotes initiative while embracing rural lifestyles.*

Mission: *Provide quality, cost effective services and infrastructure to meet the diverse needs of the Sturgeon County community, while improving competitiveness and sustainability.*

Focus Areas	Not consistent	N/A	Consistent
Strong Local Governance and Regional Leadership			
We promote consistent and accountable leadership through collaborative and transparent processes (Strategic Plan, pg. 27 MDP)	☐	☐	☒
• *Consistent with neighborhood role (see MDP), master plans,, policies*	☐	☐	☒
• *Considers fiscal stability and sustainability*	☐	☐	☒
• *Has a positive impact on regional and sub-regional cooperation*	☐	☒	☐
Respect the Natural Environment			
We acknowledge the importance of a healthy environment and will minimize and monitor our impact on ecosystems (Strategic Plan, pg. 27 MDP)	☐	☒	☐
• *Compliance with Provincial and Federal regulations and/or legislation*	☐	☒	☐
• *Ensure effective environmental risk management*	☐	☒	☐
Community Identity & Spirit			
We will build upon our strengths, where together we will create an inclusive, caring community (Strategic Plan, (Strategic Plan, pg. 27 MDP)	☐	☒	☐
• *Promotes and/or enhances residents' identification with Sturgeon County*	☐	☒	☐
• *Enhances service provision through community partnerships*	☐	☒	☐
• *Supports Sturgeon County's cultural history*	☐	☒	☐
Planned Growth and Prosperity			
We encourage varied and integrated enterprises that enhance our strong economic base, while balancing the needs of the community and natural environment. (Strategic Plan, pg. 27 MDP)	☐	☒	☐
• *Does the proposal align with the Integrated Regional Growth Strategy (map/policies) pg. 26 MDP*	☐	☒	☐
• *Considers cumulative costs and long-term funding implications*	☐	☒	☐
• *Targets growth around current or planned infrastructure*	☐	☒	☐
Maintain and Enhance Strong Communities			
We are committed to a safe, secure community, where our residents are respected and provided with access to opportunities. (Strategic Plan, pg. 27 MDP)	☐	☐	☒
• *Positive impact on residents' quality of life*	☐	☐	☒
• *Supports and promotes volunteer efforts*	☐	☒	☐
• *Provides programs and services that are accessible to all residents*	☐	☒	☐
Operational Excellence			
We have the organizational capability to deliver consistent and defined levels of service to all stakeholders in a professional, efficient, and cost effective manner	☐	☐	☒
• *Staff have the knowledge, skills, resources and capability to perform their jobs*	☐	☒	☐
• *Streamlines operational processes and policies*	☐	☒	☐
• *Promotes engagement and professional interaction with stakeholders*	☐	☐	☒
• *Considers a cost-structure which allows Sturgeon County to remain competitive within a regional, national and global context*	☐	☒	☐