

## Request for Decision

<b>Title</b>	<b>Development Agreement with 1364994 Alberta Ltd [Green Hennessey]</b>
<b>Proposed Motion</b>	That Council authorize the endorsement of the Development Agreement between Sturgeon County and 1364994 Alberta Ltd.
<b>Administrative Recommendation</b>	Administration supports Council endorsing the execution of the attached Development Agreement with 1364994 Alberta Ltd., in order to move ahead with the construction of the Green Hennessey residential subdivision, with the appropriate level of securities in place.
<b>Previous Council Direction</b>	<ul style="list-style-type: none"> <li>▪ <b>December 8, 2015 – Motion 396/15:</b> Council adopted the motion to grant 1364994 Alberta Ltd. [Green Hennessey] an extension for endorsement to Subdivision 2012-S-023 to April 30, 2016, ensuring that the extension is granted based on the existing subdivision conditional approval by the Subdivision and Development Appeal Board Decision 013-STU-009.</li>   <li>▪ <b>November 10, 2015 – Motion 348/15:</b> County Council referred the decision to the December 8, 2015 meeting and requested legal counsel provide advice regarding the request from Green Hennessey for an extension of subdivision are: i) substantive and within the development authority to approve; and ii) whether the development authority should give regard to the Subdivision and Development Appeal Board Decision.</li>   <li>▪ <b>November 10, 2015:</b> Legal counsel for Green Hennessey was in attendance at Council to discuss the Green Hennessey Development Project – Subdivision Endorsement Extension.</li>   <li>▪ <b>May 26, 2015 - Motion 177/15:</b> County Council authorized the CAO to grant the extension to 1364994 Alberta Ltd. (Green Hennessey) to subdivision 2012-S-023 to October 16, 2015 subject to the transfer of land, as identified in the Land Exchange Agreement, initiated by June 30, 2015.</li>   <li>▪ <b>April 14, 2015 - Motion 119/15:</b> County Council granted 1364994 Alberta Ltd. (Green Hennessey) a second extension to their subdivision approval until May 26, 2015.</li> </ul>

- September 23, 2014 - Motion 297/14:  
County Council extended the subdivision approval condition deadline for subdivision file 2012-S-023 [Green Hennessy] by 6 months from the current date of expiry (October 16, 2014).
  - January 22, 2013 - Motion 030/13:  
County Council approved third reading of Bylaw 1281/12 re: Amending the Land Use Bylaw 819/96 from "Agricultural" to "Country Residential Estate".
  - March 13, 2012– Motion 083/12:  
County Council approved third reading of Bylaw 1242/11 re: Amending the Municipal Development Plan from "Agriculture" to "Country Residential".
- March 13, 2012– Motion 084/12:  
County Council approved third reading of Bylaw 1241/11 re: Amending the Sturgeon Valley Area Structure Plan from "Agriculture" to "Country Residential - Existing" and "Institutional".
- March 13, 2012 - Motion 085/12: County Council approved third reading of Bylaw 1258/11 re: the adoption of the Green Hennessy Outline Plan.

- Report**
- 1) Since December 8, 2015, Administration has met with representatives of the Developer on a number of occasions. Specifically the dates and results of the meetings are as follows:
    - a) December 17, 2015. It was agreed that:
      - i) latest copy of the Development Agreement needed to be updated;
      - ii) Green Hennessy would submit a separate offer to purchase a portion of Lot 5, Block 3, Plan 0422912; and
      - iii) Consultant's engineers meet with Engineering Services to discuss the content and requirements of the engineering drawings.
    - b) January 20, 2016. Topics covered included:
      - i) Administration clarified position to the Developer's consultants regarding the site grading plan, Storm Water Management Facility, second access to Sturgeon Road and sewage lift station in Tuscany; and
      - ii) Required amendments to the Offsite Levy Bylaw, minor amendments to the draft subdivision plan and the purchase of a portion of Lot 5, Block 3, Plan 0422912.
    - c) February 12, 2016
      - i) Administration provided the Developer's consultant with a copy of the Land Evaluation for Lot 5, Blk 3, Plan 0424912.
    - d) March 24, 2016
      - i) Administration provided with the proposed edits and revisions to the Development Agreement by the Developer's consultants.
    - e) April 4, 2016
      - i) Administration met with the Developer's consultants to review the proposed edits. A list of outstanding conditions of

subdivision that needed to be addressed for endorsement was also provided to the Developer's consultant on April 12, 2016.

- f) April 29, 2016 Developer's consultants submitted a Plan of Subdivision for endorsement consistent with the Subdivision Approval, and submitted one set of Construction Engineering drawings.
- 2) The Subdivision Plan includes three minor changes; a larger PUL lot for the Storm Water Management Facility, the opening of the 3<sup>rd</sup> cul-de-sac providing better access to the existing residence on Lot 1 and one extra residential lot as a result of this open cul-de-sac. Administration sees these changes as 'minor' and can be supported within the regulations under the Subdivision Authority Bylaw.
- 3) The Engineering Construction drawing submission was not consistent with the submitted Subdivision Plan. In fact, Engineering has confirmed the submission to be a re-submission of revised plans that were submitted by the Developer's consultants in 2014 with only some of the amendments discussed during the January 20, 2016 meeting being incorporated. This falls short of what was agreed upon between the Developer's consultants and Administration as a required deliverable prior to April 30<sup>th</sup>. In subsequent discussions with the *Developer's consultants, they hope to have a more suitable Engineering Drawing Submission to the County prior to the May 10<sup>th</sup> Council Meeting.*

#### Content of the Development Agreement

- 1) The following clauses have been added to the agreement for additional clarity and security:
  - a) The security amounts in the form of Letters of Credit (LOC) to be provided for the construction of all Municipal Improvements shall be as follows:
    - i) 120% of the estimated cost of Municipal Improvements to service Stage 1 prior to endorsement of the same;
    - ii) 120% of estimated costs of Municipal Improvements to service Stage 2 once Stage 1 is complete and prior to connecting to municipal water system; and
    - iii) 100% of the Off-Site Levy owing for Stage 2 prior to endorsement of Stage 1.
  - b) No Subdivision Registration nor construction apart from site preparation (**stripping**) shall commence until final approval of the subdivision plan and construction drawings as contemplated herein has been provided by the County to the Developer in accordance with the Schedule set out in Appendix D and the County has approved the release of the Subdivision Plan for Registration.
  - c) Subject to the Developer providing to the County all required sewer flow information for Stages 1 and 2 and the future Stage 3 of the Development, in order to size the Tuscany Hills Lift Station upgrades accordingly, and paying the County the required Off-Site Levies on or before the dates specified in this Agreement, the County shall design

and construct the Tuscany Hills Lift Station (the SPS) required to provide service to the Development and shall use reasonable efforts to have the SPS Improvements completed within 24 months of the date of execution of this Agreement.

- d) The Developer shall be responsible for any temporary sanitary sewage handling cost incurred within thirty months of the execution of this Agreement. In the event that the SPS Improvements are not completed within thirty months of the date of the execution of this Agreement, the County and the Developer shall each be responsible for fifty percent of the cost incurred for temporary sanitary sewage handling from the thirty to the thirty sixth month and the County shall be responsible for one hundred percent of the cost thereafter.
  - e) The Developer agrees to pay all off-site levies for Stage 1 on or before May 31, 2016. Levies for Stage 2 will be paid before connecting to the County's Water Distribution System (Allin Ridge Reservoir).
  - f) The County agrees to make reasonable efforts to obtain equivalent voluntary recreation levy contributions from other developments in the Sturgeon Valley.
  - g) Stage 3 Levies are not contemplated in this agreement and will be a matter to be addressed when the Developer submits an application to subdivide or develop the Stage 3 lands.
- 2) One outstanding concern relates to the engineering drawings required to form part of the Development Agreement. In this regard, the Developer's consultant has proposed that the following clause be added to the Development Agreement:
- a) No registration of the Conditional Subdivision Approval (File 2012-S-023) shall be undertaken by the Developer until final approval of the Construction Engineering Drawings is granted by the County. The fully executed Development Agreement will be held in trust until the County advises different. If the approval of the Engineering Construction Drawing is not completed on or before June 30, 2016, the Endorsement Package and executed Development Agreement will be returned to the County and the agreement and subdivision approval will become null and void.

The attached Development Agreement outlines the terms of the June 30, 2016 extension within the Appendices and specifically within Appendix D of the Agreement. The County has provided some grace in allowing the Off-Site Levy for Stage 1 to be deferred until May 31, 2016 as opposed to at the signing of the Agreement in order to give the Developer some time to secure the needed financing. The remaining amendments to the security structure and terms (Phased LOC) being proposed by the Developer are not supported by administration as it will leave the County in a position with not enough security in place to complete municipal improvements if the Developer fails to meet their obligations

#### External Communication

N/A

Relevant Policy/Legislation/Practices:

Under Section 655(1) of the *Municipal Government Act*, RSA 2000 c.M-26 a Subdivision Authority may impose conditions on a subdivision approval issued by it.

The proposed Development Agreement provides a framework within which the County can ensure the Green Hennessey development is constructed to County standards with limited or no risk to public funds.

**Implication of Administrative Recommendation**

**Focus Area – Strong Local Governance**

- Goal 1.2: Sturgeon County is Financially Stable and Fiscally Sustainable.

**Focus Area – Planned Growth**

- Goal 4.2: Sturgeon County will foster growth through the Integrated Regional Growth Strategy.
- Goal 4.3: Balance demand for new infrastructure while managing investment in current assets.

The proposed development has received the required planning approvals and is consistent with MDP in that it supports investment and growth in a planned growth area (Neighbourhood G).

Organizational:

Administration will ensure that all municipal improvements be completed within the time frame as stipulated within the Development Agreement.

Financial:

The County will hold securities as outlined in the Development Agreement from 1364994 Alberta Ltd. to ensure performance on the municipal improvements in the Agreement.

\$1,274,526 of Off-Site Levies will be collected from the Developer by May 31, 2016 representing the required levy for Stage 1 of the proposed development.

The Levy for Stage 2 will be payable upon Stage 1 connecting to municipal water system equaling \$2,143,521.

**Alternatives Considered**

1. That Council not authorize endorsement of the Development Agreement between Sturgeon County and 1364994 Alberta Ltd.
2. That Council provides a 3 month time extension to Subdivision Approval 2012-S-023 until June 30, 2016.

**Implications of Alternatives**

Strategic Alignment:

1. This will cancel the current subdivision approval. Although the subject lands will still be designated for future development, residential growth in this location will be delayed until the developer submits a new application to subdivide and develop the site.

2. Rather than endorsing a modified Development Agreement process the time extension will give the developer more time to meet the conditions of the subdivision approval.

The extra time provided under another time extension may help the developer meet the required conditions.

Organizational and Financial Implications:

Developer paid Off-Site Levies for the subject lands may not be collected at this time. The funds borrowed against the Sturgeon Valley Off-Site Levy will remain in place to pay for the required infrastructure until such time as development of these lands does occur at which time the required Off-Site Levy payments will be collected.

<b>Follow up Action</b>	All municipal improvements must be completed within the time frame as stipulated within the agreement and to the satisfaction of the Municipal Engineer before Construction Completion Certificates can be issued.
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<b>Attachment(s)</b>	<ol style="list-style-type: none"><li>1. Development Agreement between Sturgeon County and 1364994 Alberta Ltd. – material to be distributed at Council Meeting</li><li>2. Subdivision Endorsement Plan – April 29, 2016</li><li>3. Approved Subdivision Plan – October 16, 2013</li></ol>
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<b>Report Reviewed by:</b>	 <p>Clayton Kittlitz, Manager of Planning &amp; Development Services</p>  <p>Stephane Labonne, General Manager of Integrated Growth</p>  <p>Peter Tarnawsky , County Commissioner – CAO</p>
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### 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
<b>Strong Local Governance and Regional Leadership</b>			
<i>We promote consistent and accountable leadership through collaborative and transparent processes ( Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Consistent with neighborhood role (see MDP), master plans,, policies</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Considers fiscal stability and sustainability</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Has a positive impact on regional and sub-regional cooperation</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Respect the Natural Environment</b>			
<i>We acknowledge the importance of a healthy environment and will minimize and monitor our impact on ecosystems ( Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Compliance with Provincial and Federal regulations and/or legislation</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Ensure effective environmental risk management</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Community Identity &amp; Spirit</b>			
<i>We will build upon our strengths, where together we will create an inclusive, caring community (Strategic Plan, (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Promotes and/or enhances residents' identification with Sturgeon County</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Enhances service provision through community partnerships</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Supports Sturgeon County's cultural history</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Planned Growth and Prosperity</b>			
<i>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)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Does the proposal align with the Integrated Regional Growth Strategy (map/policies) pg. 26 MDP</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Considers cumulative costs and long-term funding implications</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Targets growth around current or planned infrastructure</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Maintain and Enhance Strong Communities</b>			
<i>We are committed to a safe, secure community, where our residents are respected and provided with access to opportunities. (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Positive impact on residents' quality of life</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Supports and promotes volunteer efforts</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Provides programs and services that are accessible to all residents</i></li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Operational Excellence</b>			
<i>We have the organizational capability to deliver consistent and defined levels of service to all stakeholders in a professional, efficient, and cost effective manner</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Staff have the knowledge, skills and capability to perform their jobs</i></li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Streamlines operational processes and policies</i></li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Promotes engagement and professional interaction with stakeholders</i></li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li><i>Considers a cost-structure which allows Sturgeon County to remain competitive within a regional, national and global context</i></li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

