

Priorities Committee Meeting_Nov22_2016

STRATEGIC INITIATIVE AND UPDATE

Guidelines for Establishing Security in Development Agreements

Report Purpose

To present the draft Guidelines for Establishing Security in Development Agreements.

Council History

January 19, 2016 - Council approved motion 2016/6 THAT Administration work with the Urban Development Institute and Canadian Home Builders Association to create guidelines for establishing security in the County's standard development agreement, and bring forward a report for Council discussion at the end of the 3rd quarter 2016

Strategic Plan Priority Areas

Economy: Adequate security is essential to guarantee the developer's obligations and to ensure limited risk to the municipality.

Governance: n/a

Social: n/a

Culture: n/a

Environment: n/a

Other Impacts

Policy: n/a

Legislative/Legal: Section 655 (1)(b)(vi) of the *Municipal Government Act* states that a subdivision authority may impose by the subdivision and development regulations on a subdivision approval issued by it, a condition that the applicant enter in an agreement with the municipality to give security to ensure the terms of the agreement under this section are carried out.

Interdepartmental: n/a

Summary

On January 19, 2016, Council approved motion 2016/6 THAT Administration work with the Urban Development Institute and Canadian Home Builders Association to create guidelines for establishing security in the County's standard development agreement, and bring forward a report for Council discussion at the end of the 3rd quarter 2016.

The purpose of the motion was to direct administration to work with the development industry to establish guidelines to be included in Development Agreements based on developer's past performance and reducing security requirements for developers who have a positive track record.

As a result of the motion, a working committee was established in May 2016 consisting of representatives from Planning and Development Services and the Urban Development Institute to work towards establishing the guidelines. As builders generally do not enter into development agreements for construction, the Canadian Home Builders Association has provided comments on the Guidelines as drafted indicating that at this time they are neither recommending nor suggesting any changes to the document. They have however requested that we work with their association on security requirements under the Land Use Bylaw.

Currently the County requires all developers to follow the security as noted in Category B below. This practice limits our liability if a developer was to default on its obligation under the Development Agreement.

The proposed Guidelines categorize developers based on their past performance in the County. Based on their performance category, the Security amount required to be posted will be defined within the Development Agreement.

The working committee agreed upon developing 3 categories being Category A, Category B and Category C developers.

Category A: Describes a developer whose past performance includes ALL of the following Criteria:

- a) Being a party to two (2) or more Development Agreements with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements; or
- b) References from another municipality in the Capital Region certifying the completion of two (2) or more Development Agreements in the past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements.

Category B: Describes a developer whose past performance includes ALL of the following Criteria:

- a) No previous Development Agreements with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements; or
- b) Being a party to only of one (1) Development Agreement with Strathcona County in past five (5) years where all Construction Completion Certificates were issued within the timelines set out in the agreements.

Category C: Describes a developer who has been involved in a breach of the terms and conditions of previous Development Agreements, or a developer who has frequent minor breaches of the terms and conditions of previous Development Agreements including Development Agreements with other municipalities in the Capital region.

Once a developer has been categorized, the amount of security to be posted will be based on a percentage of the construction cost estimates for the particular stage of development. Construction cost estimates must be stamped and signed by a Professional Engineer. The percentage of security will vary depending on the category in which the developer has been placed.

Category	Initial Security (prior to County acceptance of the construction drawings)	Further Security (prior to endorsement)	Security held During Guarantee Period (after CCC)
A	10%	50% of the cost to complete all municipal improvements	10% (or 50% of cost to complete - whichever's greater)
B	10%	115% of the cost to complete all municipal improvements	10% (or 115% of cost to complete - whichever's greater)
C	115%	--	10% (or 115% of cost to complete - whichever's greater)

If we move towards implementing a category system, the County would be exposed to additional risk as we would not hold the entire cost to complete outstanding deficiencies if a Category A developer did not complete their obligations under the development agreement. Rather than holding 115% of the cost to complete, we would only be holding 50% of the cost to complete under this category.

Enclosure

1 Draft - Guidelines for Establishing Security in Development Agreements