

City of Kelowna Public Hearing AGENDA



Tuesday, May 10, 2022
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order the Public Hearing - START TIME 6:00 PM - Hwy 97 N 7820, 7840 - LUCT20-0016 (BL12349) - 464263 British Columbia Ltd., Inc.No. BCo464263

I would like to acknowledge that we are gathered today on the traditional, ancestral, unceded territory of the syilx/Okanagan people.

This evening, Council will hold both a Public Hearing and a Regular Meeting.

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public on the table in the foyer of Council Chamber and online at Kelowna.ca/council.

For those participating this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

2. Individual Bylaw Submissions

2.1. START TIME 6:00 PM - Hwy 97 N 7820, 7840 - LUCT20-0016 (BL12349) - 464263 British Columbia Ltd., Inc.No. BCo464263

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To proceed with early termination of Land Use Contract 76-1055 and to revert the parcel to the underlying A1 – Agriculture 1 zone.

3. Termination

4. Call to Order the Regular Meeting

5. Bylaws Considered at Public Hearing

**5.1. START TIME 6:00 PM - Hwy 97 N 7820, 7840 - BL12349 (LUCT20-0016) - 464263
British Columbia Ltd., Inc.No. BCo464263**

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To give Bylaw No. 12349 second and third reading and adopt in order to proceed with early termination of Land Use Contract 76-1055.

6. Termination

7. Procedure on each Bylaw Submission

- a) Brief description of the application by City Staff (Development Planning);
- (b) The applicant has up to 15 minutes to make representations to Council regarding the project.
- (c) The Chair will call for representation from the public participating in person and online as follows:
 - (i) Any person wishing to make representations during the Hearing will have the opportunity to do so.
 - (ii) Speakers have up to 5 minutes to share their remarks.
- (d) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in questions be held open, the Chair shall state to participants the the Public Hearing on the Bylaw is closed.
- (e) Once the public has had an opportunity to comment, the application is given up to 10 minutes to respond to any questions raised.
- (f) Questions of staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

Note: Any applicant or member of the public may use electronic visual aids to assist in their presentation or questions. Online participants must be able to share their screen to display the item.

REPORT TO COUNCIL



Date: April 25, 2022
To: Council
From: City Manager
Department: Development Planning
Application: LUCT20-0016
Owner: 464263 British Columbia Ltd.,
Inc.No. BCo464263
Address: 7820 - 7840 Hwy 97 N
Applicant: The City of Kelowna
Subject: Land Use Contract Termination Application
Existing OCP Designation: R-AGR – Rural – Agricultural and Resource
Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0016 to terminate LUC76-1055 from Lot A Section 34 Township 23 ODYD Plan 9139 Except Plan 40621 and Lot 2 Section 34 Township 23 ODYD Plan 28654 Except Plans 40618 and KAP57009, located at 7820 Hwy 97 N and 7840 Hwy 97 N, Kelowna, BC, be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Applications Council Policy No. 367;

AND FURTHER THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To proceed with early termination of Land Use Contract 76-1055 and to revert the parcel to the underlying A1 – Agriculture 1 zone.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1055 from the subject property. The current LUC affects two properties at 7820 and 7840 Hwy 97 N and restricts the property to 1976's Zoning Bylaw 4500's A1 (Rural) zone and additionally the use of sale and rental of new and used recreational vehicles and storage and sales of propane gas. The underlying zone of A1 – Agriculture 1 is the most appropriate zone, as it meets the Future Land Use Designation, however, the

existing business on site will be put into a legal non-conforming status. The business is permitted to remain in a non-conforming status as long as it is not discontinued for a continuous period of 6 months.

4.0 Proposal

4.1 Background

Land Use Contracts were a tool regularly used in the 1970’s before it was eliminated on November 15th, 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th, 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th, 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

4.2 Notification

Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land. The municipality must also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Land Use Contract Termination application. Development Signs, in this case, are not recommended as the Land Use Contract is a City initiative, and the land use is not subject to major change.

4.3 Site Context

The subject properties are located on Highway 97 N. The property and the surrounding are has been designated as Rural – Agricultural and Resource in the Official Community Plan.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture
East	FNR – First Nations Reserve	Residential
South	A1 – Agriculture 1	Residential
West	A1 – Agriculture 1	Vacant

Subject Property Map: 7820-7840 Hwy 97 N



5.0 Current Development Policies

5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

Council Policy No. 282. Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by Council with regard to affected contracts.

6.0 Application Chronology

Date of Application Received: December 9th, 2020
Date of Owner Notification: December 18th, 2020 & March 29th, 2022

Report prepared by: Tyler Caswell, Planner I
Reviewed by: Dean Strachan, Community Planning & Development Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services



LUCT20-0016

7820 Hwy 33 W & 7840 Hwy 33 W

Land Use Contract Termination



Proposal

- ▶ To terminate the Land Use Contract (LUC76-1055) from the subject property and revert the parcel to the underlying A1 – Agriculture 1 zone.

Development Process

Dec 9, 2020

LUC Termination Initiated by Staff



Dec 18, 2020 &
Mar 29, 2022

Owner Notification Completed



Apr 25, 2022

Initial Consideration



Public Hearing (LUCT)
Second & Third Readings

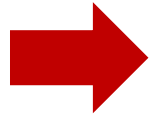


Final Reading



LUC Eliminated (1 year later)

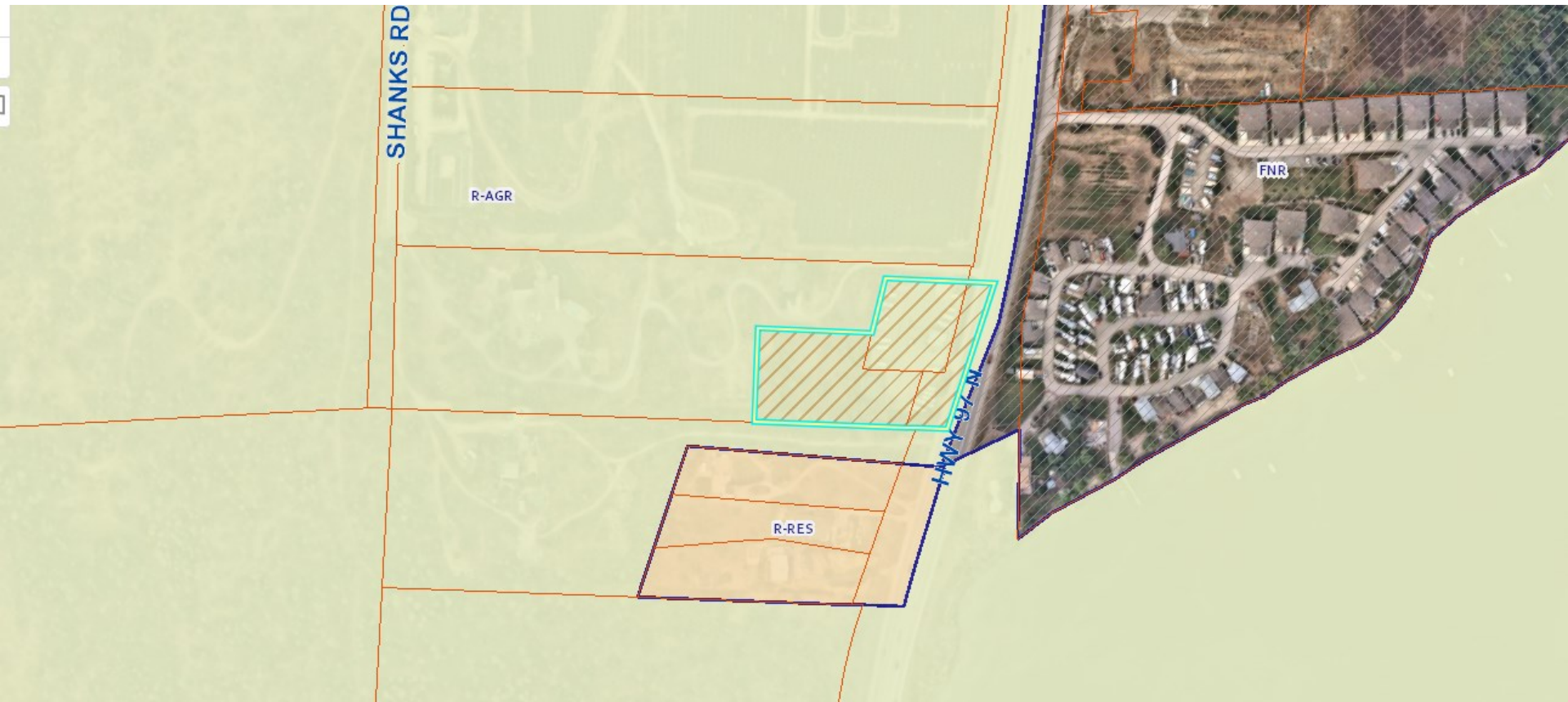
Council
Approvals



Context Map



OCP Future Land Use



Background

- ▶ Land Use Contracts: 1970's tool
- ▶ Allow local governments to grant development rights above and beyond current zoning
- ▶ Exchange for commitments from developers to help infrastructure costs
- ▶ BC Government requires all contracts to be discharged and/or terminated by 2024 and the appropriate zoning in place by 2022.

Project Details

- ▶ Staff initiated the termination of LUC76-1055.
- ▶ Staff are proposing to revert the parcel back to the A1 – Agriculture 1 zone to match the Future Land Use Designation.
- ▶ This will leave the existing business in a legal non-conforming status.
- ▶ If successful, the property will get the full use of current A1 zone, one year after termination date.

Public Notification Policy #367

- ▶ Staff sent a letter to the property owner of the Proposed Land Use Contract Termination on December 18th, 2020.
 - ▶ A copy of the A1 zone was included in the letter.
- ▶ Staff also restarted the notification process on March 29th, 2022.

Staff Recommendation

- ▶ Development Planning Staff recommend **support** for the proposed land use contract termination:
 - ▶ The underlying zone is appropriate for the existing use and matches the surrounding area.
 - ▶ Province of BC requires all LUC's to be discharged/terminated.



Conclusion of Staff Remarks

CITY OF KELOWNA

BYLAW NO. 12349

LUCT20-0016

Early Termination of Land Use Contract - LUC76-1055 7820 and 7840 Highway 97 North

WHEREAS a land use contract (the "Land Use Contract LUC76-1055") is registered at the Kamloops Land Title Office under the charge number M29957 against lands in the City of Kelowna particularly known and described as Lot A Section 34 Township 23 ODYD Plan 9139 Except Plan 40621 and Lot 2 Section 34 Township 23 ODYD Plan 28654 Except Plans 40618 and KAP57009 (the "Lands"), located on Highway 97 North, Kelowna, B.C.;

AND WHEREAS Section 548 of the *Local Government Act* provides that a local government may impose an early termination to land use contracts registered in a Land Title Office that applies to land within the jurisdiction of the local government;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited for all purposes as "Bylaw No. 12349 - Early Termination of Land Use Contract LUC76-1055";
2. John Edward McGowan Land Use Contract Authorizing By-Law, 1976, No. 4179 establishing Land Use Contract LUC76-1055 and all amendments thereto, are hereby repealed and the Land Use Contract is terminated as of the date of adoption; and
3. This bylaw will come into force and effect one year after the adoption date.

Read a first time by the Municipal Council this 25th day of April, 2022.

Considered at a Public Hearing on the

Read a second and third time by Municipal Council this

Adopted by the Municipal Council this

Mayor

City Clerk