

REPORT TO COUNCIL



Date: January 15, 2018

RIM No. 1250-40

To: City Manager

From: Community Planning Department (AC)

Application: Z16-0027/LUCT16-0001 **Owner:** Stewart James Storie and Gloria Wing Heung (5076)

Address: 5076 Lakeshore Road **Applicant:** The City of Kelowna

Subject: Rezoning and Land Use Contract Termination Application

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: A1 – Agriculture 1

Proposed Zone: RR2 – Rural Residential 2

1.0 Recommendation

WHEREAS the BC Provincial Government has mandated that all Land Use Contracts under the jurisdiction of a local government and in the Province of British Columbia be terminated by 2024;

AND WHEREAS the BC Provincial Government has provided a legislated process for the early termination of land use contracts when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

AND THAT Application No. LUCT16-0001 to terminate LUC77-1012 from Lot B, Section 23, Township 28, SDYD, Plan 30063, located on 5076 Lakeshore Road, Kelowna, BC, be considered by Council;

AND WHEREAS the underlying A1 – Agriculture 1 zone in the City of Kelowna Zoning Bylaw No. 8000 applies to Lot B, Section 23, Township 28, SDYD, Plan 30063, located on 5076 Lakeshore Road, Kelowna, BC under Land Use Contract LUC77-1012;

THEREFORE, BE IT RESOLVED THAT as the underlying A1 – Agriculture 1 zone Lot B, Section 23, Township 28, SDYD, Plan 30063, located on 5076 Lakeshore Road, Kelowna, BC under Land Use Contract LUC77-1012 does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

AND THAT Rezoning Application No. Z16-0027 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for Lot B, Section 23, Township 28, SDYD, Plan 30063, located 5076 Lakeshore Road, Kelowna, BC from the A1 - Agriculture 1 zone to the RR2 – Rural Residential 2 zone be considered by Council;

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

2.0 Purpose

To consider an application to terminate the Land Use Contract and rezone the subject properties from A1 – Agriculture to the RR2 – Rural Residential 2.

3.0 Community Planning

Staff are bringing forth a Land Use Contract (LUC) termination and rezoning application for the subject properties. The underlying zoning (A1 – Agriculture) does not fit within the established neighbourhood and does not match the existing land use. Staff are proposing to adopt the adjacent RR2 – Rural Residential 2 zone to the subject properties. This termination of LUC77-1012 is the result of the LUC discharge and rezoning application on 5080 Lakeshore Road (Z16-0009 & LUC16-0001). The existing Land Use Contract (LUC) on the subject properties was created in 1976 to allow for one single family residential dwelling per lot on Lakeshore Road with the possibility of an additional structure as an accessory building. Staff are suggesting rezoning the two properties to RR2 which would permit similar uses.

The Local Government Act, that was amended in 2014, states that all land use contracts in the province will be terminated as of June 30th 2024. In addition, by June 20th 2022, local governments must have the appropriate underlying zoning regulations adopted in order to replace land use contracts upon their termination. Therefore, the application at 5080 Lakeshore has brought an opportunity for the City to terminate this Land Use Contract.

Community Planning supports the request for the LUC termination and rezoning as it complies with the 2014 amendment of the Local Government Act.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for this Land Use Contract termination. Public consultation in this case is not recommended as the process is a City initiative mandated by the Local Government Act and does not result in any changes in existing land use. Staff did mail out letters to the 2 impacted property owners (see attached letter). There are approximately 83-86 LUCs remaining out of an original 140 LUCs approved by the City of Kelowna that affect approximately 710 properties.

4.0 Proposal

4.1 Background

British Columbia first experimented with contract zoning in 1971. The Land Use Contract was a tool regularly used in the 1970's and 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. From 1978 to 2014, municipalities or the owners of the land could not unilaterally discharge, cancel, or modify the land use contract without the other party's consent. 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. This provides property owners with ten years to complete any development authorized by their land use contract unless the LUC is terminated prior to that date. By June 20th 2022, local governments must have appropriate zoning

regulations in place to replace land use contracts upon their termination. 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.

Land Use Contract 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. Further, the municipality must send additional letters after the one-year grace period is complete informing the property owners of which land use regulations apply to their properties.

4.2 Project Description

The City is seeking to rezone one property to RR2 – Rural Residential 2 and to terminate the Land Use Contract. The property at 5076 Lakeshore Road consists of a single family dwelling.

The property located at 5064 Lakeshore Road has applied for a Land Use Contract discharge and rezoning application. Therefore, it was no included in this report.

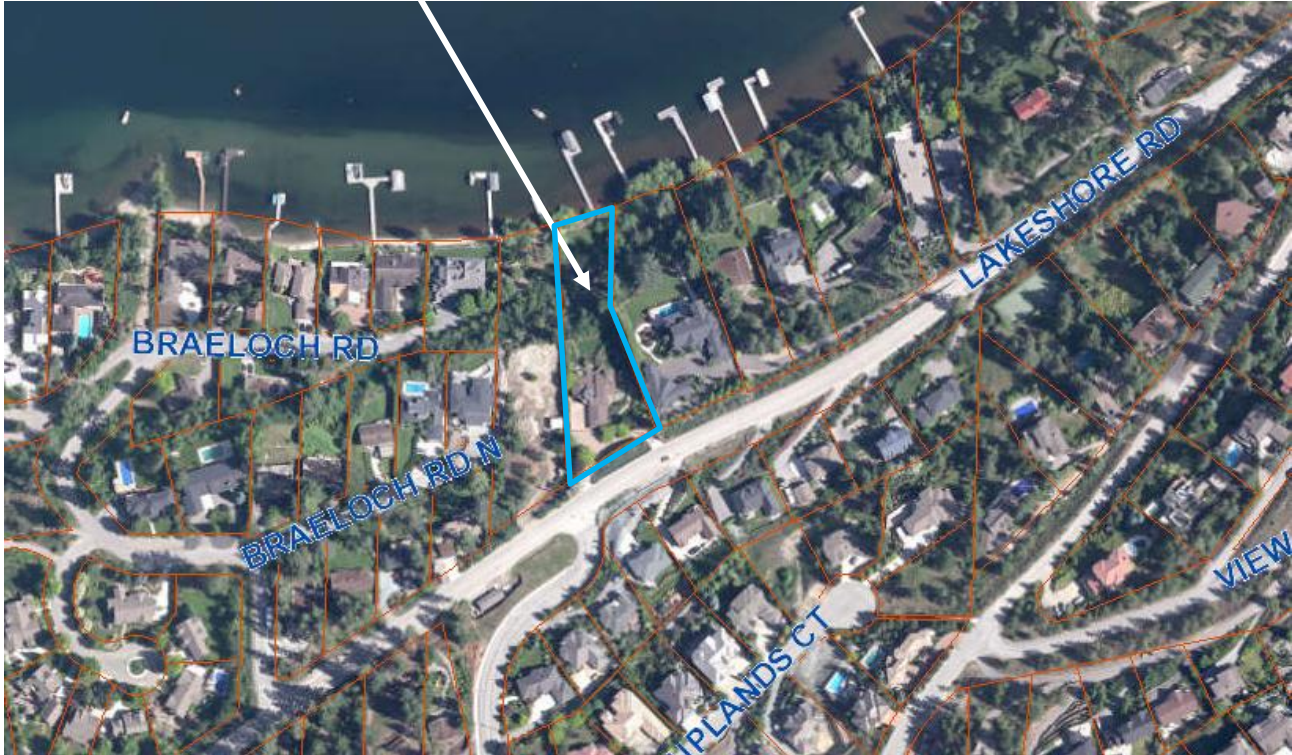
4.3 Site Context

The subject properties abut Lakeshore Road on the northwest side. The properties are designated S2RES – Single/Two Unit Residential in the Official Community Plan and the surrounding area is low density residential.

Adjacent land uses are as follows:

Orientation - 5076 Lakeshore Road	Zoning	Land Use
North	W1 – Recreational Water Use	N/A
East	LUC 77-1012 (A1 – Agricultural 1)	Single family residential
South	RU1 – Large Lot Housing	Single family residential
West	LUC 77-1012 (A1 – Agricultural 1)	Single family residential

Subject Properties Map: 5076 Lakeshore Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

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

Council Policy No. 282.² Includes the following statement:

- That the City of Kelowna initiate proceedings to discharge the contacts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts;

6.0 Technical Comments

N/A

¹ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

7.0 Application Chronology

Date of Application Received: May 6, 2016

Date Public Consultation Completed: N/A *

*See community planning section for the public consultation waiver rationale.

Report Prepared by: Adam Cseke, Urban Planner Specialist & Jenna Ratzlaff, Summer Student

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Letter to LUC owners