REPORT TO COUNCIL

Date:	June 30th, 2018		
RIM No.	1250-40		
To:	City Manager		
From:	Community Planning Department (JR)		
Application:	LUCT18-0001 / Z18-0054	**Owner:**	Multiple Properties
Address:	Multiple Addresses	**Applicant:**	The City of Kelowna
Affected Streets:	Grouse Avenue, Stellar Drive, Sandpiper Street, Sandpiper Court, Tanager Drive, Tanager Court, Raven Drive, and Phoebe Court		
Subject:	Land Use Contract Termination (LUC77-1001) and Rezoning Application		
Existing OCP Designation:	S2RES – Single / Two Unit Residential		
Existing Zone:	RR1 – Rural Residential 1		
Proposed Zone:	RU1 – Large Lot Housing & RR3 – Rural Residential 3		

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 contract when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

THEREFORE, BE IT RESOLVED THAT as the underling RR1 – Rural Residential 1 zone for the subject properties under the Land Use Contract LUC77-1001 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT18-0001 to terminate LUC77-1001 from the properties identified in 'Schedule A' located on Grouse Avenue, Stellar Drive, Sandpiper Street, Sandpiper Court, Tanager Drive, Tanager Court, Raven Drive, Thrasher Avenue and Phoebe Court, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z18-0054 to amend the City of Kelowna Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B', located on Grouse Avenue, Stellar Drive, Sandpiper Street, Sandpiper Court, Tanager Drive, Tanager Court, Raven Drive, Thrasher Avenue and Phoebe Court Kelowna, BC from the RR1 – Rural Residential 1 zone to RU1 – Large Lot Housing be considered by Council;

AND THAT Rezoning Application No. Z18-0054 to amend the City of Kelowna Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule C', located on Tanager Court, Kelowna, BC from the RR1 – Rural Residential 1 zone to RR3 – Rural Residential 3 be considered by Council;

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

2.0 Purpose

To consider an application to rezone the subject properties as identified in Schedule "B and C", and proceed with the early termination of Land Use Contract LUC77-1001 to revert the properties within the Upper Mission area of Kelowna to the new underlying RU1 – Large Lot Housing and RR3 – Rural Residential 3 zones.

3.0 Community Planning

Community Planning Staff is supportive of terminating a Land Use Contract that applies to 124 subject parcels within the South Okanagan Mission Sector, just north of the Kettle Valley Development. An application, LUC18-0002, was made to the City to have the LUC discharged from 5321 Grouse Avenue. As outlined in the Land Use Contract Termination Strategy Report to Council dated September 12, 2016, if an application is made to request a Land Use Contract Discharge from a specific property, Staff will use the opportunity to bring forth the accompanying Land Use Contract Termination Report when the land use contract applies to additional properties.

The 123 subject parcels are located on Grouse Avenue, Stellar Drive, Sandpiper Street, Sandpiper Court, Tanager Drive, Tanager Court, Raven Drive, Thrasher Avenue and Phoebe Court. The LUC currently restricts the use to one single family dwelling. The underlying zoning (RR1 – Rural Residential 1) does not fit with the established neighbourhood and is not an appropriate zone for the existing land use. Staff are recommending that properties connected to sanitary sewer or have the possibility to connect be rezoned to RU1 – Large Lot Housing and properties not connect to sanitary sewer be rezoned to RR3 – Rural Residential 3. The Land Use Contract uses and regulations fit within the RU1 and RR3 zone however, the new zones do permit more uses (e.g. secondary suite).

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 send additional letters after the one-year grace period is complete informing the property owners of which land use regulations apply to their properties.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for all Land Use Contract terminations. Public consultation in this case is not recommended as the notification policy is a City initiative. Staff are suggesting the standard development notification, as outlined above, be sent to properties affected by the LUC under consideration for termination.

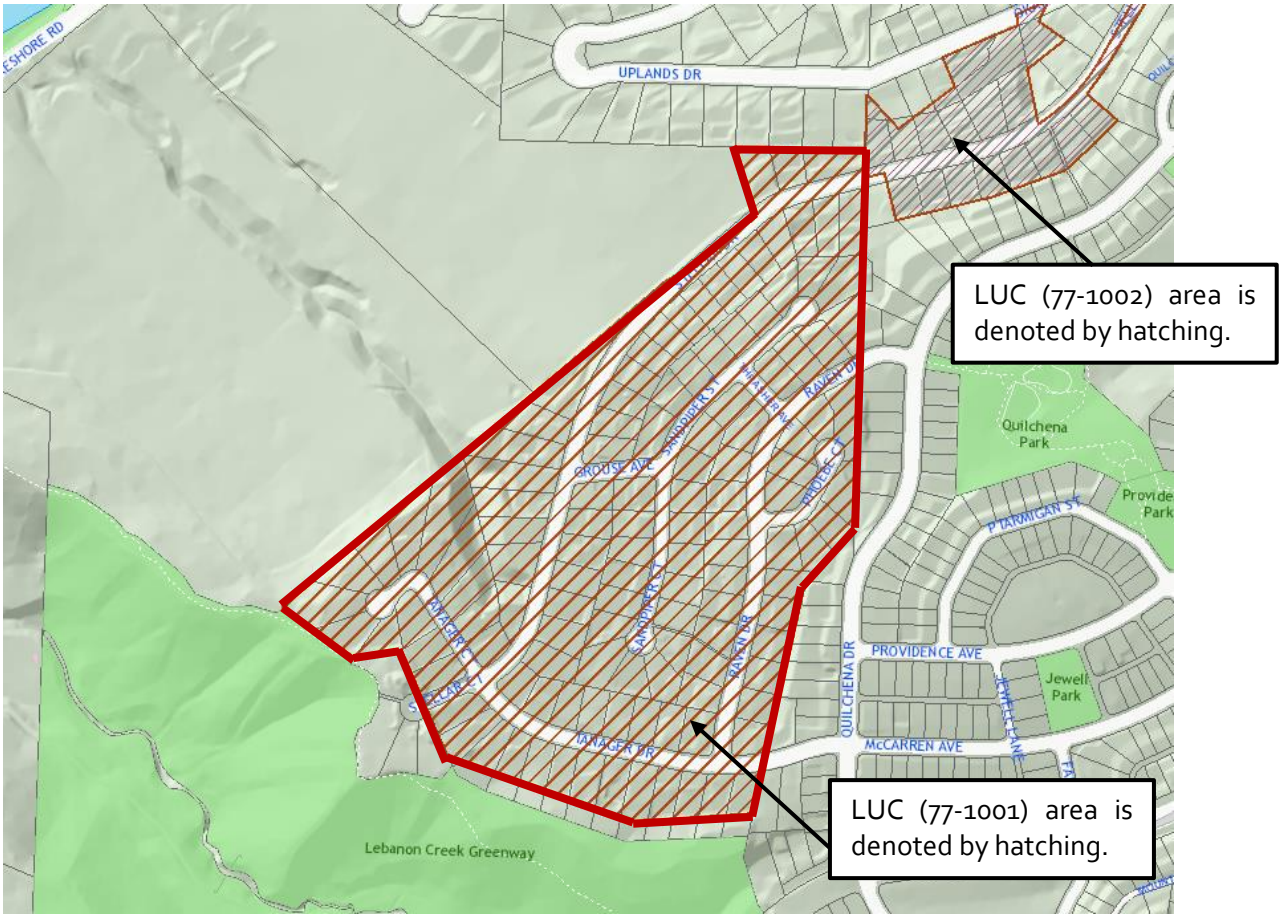
4.3 Site Context

The subject properties have a total area of 209,918 m^2 and are located just North of the Kettle Valley development. The properties are designated S2RES – Single / Two Unit Residential and the surrounding area is single family residential, agriculture, and park space.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR2 – Rural Residential 2 A1 – Agriculture 1	Residential Subdivision Vineyard
East	CD12 - Kettle Valley RU1 – Large Lot Housing	Residential Subdivision
South	RU1 – Large Lot Housing P3 – Parks and Open Space	Residential Subdivision Park Land
West	A1 – Agriculture 1	Vineyard

Subject Property Map: Grouse Avenue



5.0 Current Development Policies

5.1 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

6.1 Development Engineering Department

- No concerns

7.0 Application Chronology

N/A

Prepared by: Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

Attachments:

Map 'A' – Proposed Zoning
Schedule 'A' – LUC Termination Properties
Schedule 'B' – Properties to be Rezoned (RR1 – RU1)
Schedule 'C' – Properties to be Rezoned (RR1 – RR3)