

# REPORT TO COUNCIL



**Date:** August 27, 2018

**RIM No.** 1250-40

**To:** City Manager

**From:** Community Planning Department (JR)

**Application:** LUC18-0002 / Z18-0030      **Owner:** Neil Leohard Savilerwald & Linda Anne Saliverwald

**Address:** 5321 Grouse Avenue      **Applicant:** Ray Lefebvre – Keystone Design

**Subject:** Land Use Contract Discharge and Rezoning Application (LUC 77-1001)

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RR1 – Rural Residential 1

Proposed Zone: RU1 – Large Lot Housing

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## 1.0 Recommendation

THAT Application No. LUC 18-0002 to discharge LUC77-1001 from Lot 18 Section 23 Township 28 SDYD Plan 32481 located at 5321 Grouse Avenue, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z18-0030 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 18 Section 23 Township 28 SDYD Plan 32481, located at 5321 Grouse Ave, Kelowna, BC from the RR1 – Rural Residential 1 zone to RU1 – Large Lot Housing be considered by Council;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Attachment "A" attached to the report from the Community Planning Department dated August 27, 2018;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the removal of the secondary driveway as set out in Schedule "A" attached to the report from the Community Planning Department dated August 27, 2018;

AND FURTHER THAT the Land Use Contract Discharge and Zone Amending Bylaws be forwarded to a Public Hearing for further consideration;

## **2.0 Purpose**

To consider a Land Use Contract discharge and rezoning of the subject property from RR1 – Rural Residential 1 to RU1 - Large Lot Housing.

## **3.0 Community Planning**

The applicant is proposing to rezone the subject property to facilitate a building addition to the primary dwelling and garage which would allow for the addition of a secondary suite within the primary dwelling. However, the parcel is currently under the regulation of a Land Use Contract (LUC) which does not permit the secondary suites and so the LUC needs to be discharged. The LUC (LUC77-1001) was created in 1978 and permitted 123 total residential parcels in the neighbourhood. Further, the LUC stipulates that the provisions of Zoning Bylaw No. 4500 A4 – Rural Residential regulations apply to the development of the land whereby secondary suites are not permitted. Community Planning Staff supports the request to discharge the LUC and rezone the property as the underlying RR1 zone is not appropriate. Rezoning will provide the property with an appropriate zone and will facilitate the construction of the addition to allow for a secondary suite. The LUC will be discharged in accordance with Council Policy No. 282 (Strategy for Elimination of Remaining Land Use Contracts).

In conformance with Council Policy No. 282, Staff will bring a bylaw terminating the Land Use Contract from the remainder 122 parcels within the Upper Mission Area of Kelowna. This is a separate process from the discharge of an LUC, as termination eliminates the LUC one year after Council adoption (whereas a discharge is immediate).

## **4.0 Proposal**

### **4.1 Background**

The Province first experimented with contract zoning in 1971. The Land Use Contract was a tool that entered into use in the 1970's before it was eliminated on November 15<sup>th</sup> 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.

However, 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 need to be terminated as of June 30<sup>th</sup> 2024. 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 20<sup>th</sup> 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, due to this requirement of the Local Government Act, staff are recommending whenever a property owner applies to change land uses within an LUC, that staff initiate the process to eliminate the whole LUC. This approach will help alleviate the future work load of eliminating and rezoning all LUC's at one time.

In addition, local governments must provide notice to each owner that the termination of land use contract is occurring 1 year after adoption and must provide notice of what the new zoning regulations are that apply to the land.

### **4.2 Project Description**

The applicant is proposing to rezone the subject property to RU1c – Large Lot Housing to facilitate the construction of a secondary suite. The existing LUC needs to be discharged prior to supporting the rezoning and construction of a secondary suite.

4.3 Site Context

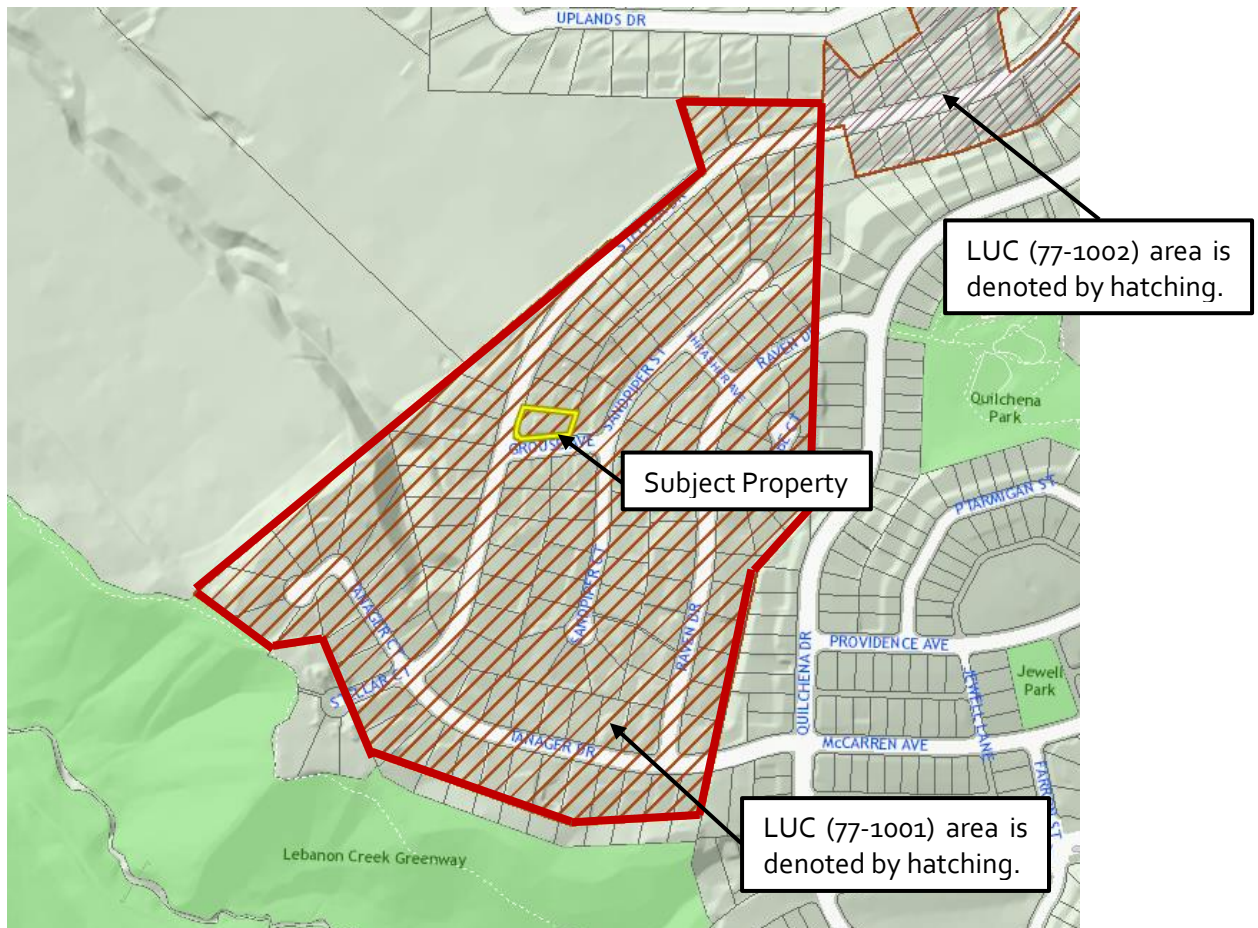
The subject property has a total area of 1255 m<sup>2</sup> and is located on Grouse Avenue. Currently the property is not connected to community sewer however is required to connect due to proposed secondary suite. The property and the surrounding area is designated S<sub>2</sub>RES – Single / Two Unit Residential in the Official Community Plan. The LUC applies to 123 parcels which front onto Grouse Avenue, Stellar Drive, Sandpiper Street, Sandpiper Court, Tanager Drive, Tanager Court, Raven Drive, and Phoebe Court.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	LUC 77-1001 RR1 – Rural Residential 1	Residential Subdivision
East	LUC 77-1001 RR1 – Rural Residential 1	Residential Subdivision
South	LUC 77-1001 RR1 – Rural Residential 1	Residential Subdivision
West	LUC 77-1001 RR1 – Rural Residential 1	Residential Subdivision

LUC Area Map: Grouse Avenue

Subject Property Map: 5321 Grouse Avenue



## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Compact Urban Form.**<sup>1</sup> 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.**<sup>2</sup> 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 Building & Permitting Department

- Full Plan check for Building Code related issues will be done at time of Building Permit applications.

### 6.2 Development Engineering Department

- See Attachment A

### 6.3 Fire Department

- No objections to zoning

## 7.0 Application Chronology

Date of Application Received: March 26, 2018

Date Public Consultation Completed: August 14, 2018

**Prepared by:** Jenna Ratzlaff, Planner

**Reviewed by:** Terry Barton, Urban Planning Manager

**Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

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

<sup>2</sup> City of Kelowna Council Policy 282 Strategy for Elimination of Remaining Land Use Contracts.

**Attachments:**

Attachment 'A': Development Engineering Memo

Schedule 'A': Plans

Schedule 'B': Sections and Elevations