

REPORT TO COUNCIL



Date: October 1, 2018

RIM No. 1250-40

To: City Manager

From: Community Planning Department (TH & JR)

Application: LUC18-0003 / Z18-0051 **Owner:** Patrick & Brenda Kryski

Address: 649 Drummond Court **Applicant:** Patrick & Brenda Kryski

Subject: Land Use Contract Discharge and Rezoning Application (LUC76-1041)

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RR3 – Rural Residential 3

Proposed Zone: RU1 – Large Lot Housing

1.0 Recommendation

THAT Application No. LUC 18-0003 to discharge LUC76-1041 from Lot 26 District Lots 357 & 358 ODYD Plan 31179 located at 649 Drummond Court, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z18-0051 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 26 District Lots 357 & 358 ODYD Plan 31179, located at 649 Drummond Court, Kelowna, BC from the RR3 – Rural Residential 3 zone to RU1 – Large Lot Housing zone be considered by Council;

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 RR3 – Rural Residential 3 to RU1 - Large Lot Housing to facilitate a subdivision.

3.0 Community Planning

The applicant is proposing to rezone the subject property to facilitate a subdivision. However, the parcel is currently under the regulation of a Land Use Contract (LUC) which does not permit subdivisions and so the LUC needs to be discharged. The LUC (LUC76-1041) was created in 1978 and permitted 28 total residential parcels in the neighbourhood. In 2005 six of these properties had the LUC discharged and were subdivided. There are now 22 properties that continue to be regulated by this LUC. Community Planning Staff supports the request to discharge the LUC and rezone the property as the underlying RR3 zone is not appropriate.

Rezoning will provide the property with an appropriate zone and will facilitate a subdivision. 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 22 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 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.

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 30th 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 20th 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 RU1 – Large Lot Housing to facilitate a subdivision of the property. The existing LUC needs to be discharged prior to supporting the rezoning and subdivision.

4.3 Site Context

The subject property has a total area of 2023 m² and is located on Drummond Court. The property and the surrounding area is designated S2RES – Single / Two Unit Residential in the Official Community Plan. The LUC applies to 22 parcels which front onto Drummond Court and Barnaby Road.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	LUC 76-1041 RR3 – Rural Residential 3	Residential Subdivision

East	LUC 76-1041 RR3 – Rural Residential 3	Residential Subdivision
South	LUC 76-1041 RU2 – Medium Lot Housing	Residential Subdivision
West	LUC 76-1041 RU1 – Large Lot Housing	Residential Subdivision

LUC Area Map: Drummond Ct / Barnaby Rd

Subject Property Map: 649 Drummond Court



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

6.1 Building & Permitting Department

- No comment

6.2 Development Engineering Department

- See Schedule A

6.3 Fire Department

- No objections to zoning

7.0 Application Chronology

Date of Application Received: April 17, 2018

Date Public Consultation Completed: May 18, 2018

Prepared by: Jenna Ratzlaff, Planner Tracey Hillis, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Schedule 'A': Development Engineering Memo

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

² City of Kelowna Council Policy 282 Strategy for Elimination of Remaining Land Use Contracts.

Schedule 'B': Plans