

REPORT TO COUNCIL



Date: January 14, 2019

RIM No. 1250-40

To: City Manager

From: Community Planning Department (TH & JR)

Application: LUCT18-0002 / Z18-0089 **Owner:** Multiple Properties

Address: Multiple Addresses **Applicant:** The City of Kelowna

Affected Streets: Drummond Court and Barnaby Road

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

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RR3 – Rural Residential 3

Proposed Zone: RU1 – Large Lot Housing

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 underlying RR3 – Rural Residential 3 zone for the subject properties under the Land Use Contract LUC76-1041 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT18-0002 to terminate LUC76-1041 from the properties identified in 'Schedule A' located on Drummond Court and Barnaby Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z18-0089 to amend the City of Kelowna Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B', located on Drummond Court and Barnaby Road Kelowna, BC from the RR3 – Rural Residential 3 zone to RU1 – Large Lot Housing zone 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 proceed with the early termination of Land Use Contract LUC76-1041 to rezone the properties within the Drummond Court and Burnaby Road neighbourhood of Kelowna to the RU1 – Large Lot Housing zone.

3.0 Community Planning

Community Planning Staff is proposing terminating a Land Use Contract that applies to 21 subject parcels within the South Okanagan Mission Sector. A separate application, LUC18-0003, was made to the City to have the LUC discharged from 649 Drummond Court. As outlined in the City's Strategy for Elimination of Remaining Land Use Contracts (Council Policy #282), 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 21 subject parcels are located on Drummond Court and Barnaby Road. The LUC currently restricts the use to one single family dwelling. The underlying zoning (RR3 – Rural Residential 3) does not fit with the established neighbourhood and is not an appropriate zone for the existing land use. Staff are recommending that properties be rezoned to RU1 – Large Lot Housing. The Land Use Contract uses and regulations fit within the RU1 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. On August 13, 2018, Staff sent the information letter to all property owners named in Schedule 'A' and 'B', attached to this report.

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.

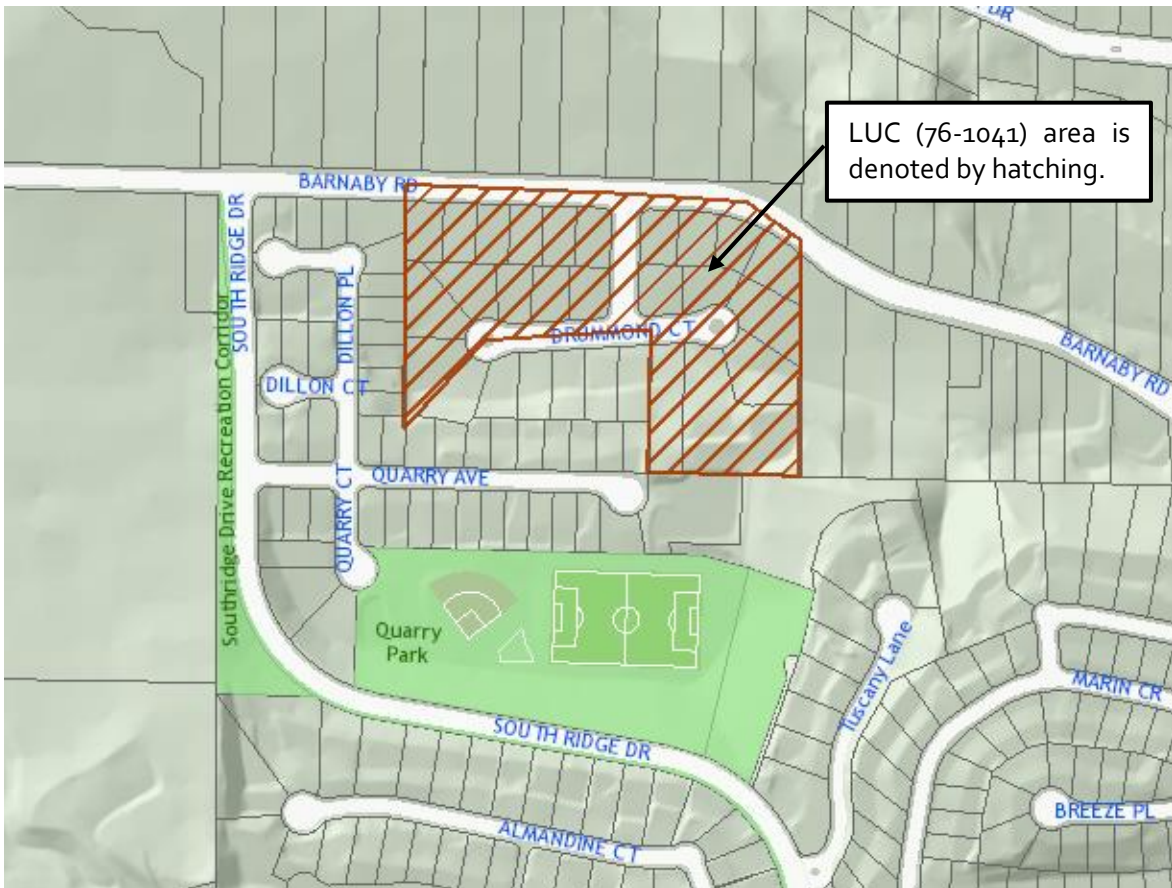
4.3 Site Context

The subject properties have a total area of 33,766 m² and are located in the Upper Mission. The properties are designated S2RES – Single / Two Unit Residential and the surrounding area is single family residential and park space.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR1 – Rural Residential 1	Residential Subdivision
East	RR2 – Rural Residential 2	Residential Subdivision
South	RU1 – Large Lot Housing P3 – Parks and Open Space	Residential Subdivision Park Land
West	RU1 – Large Lot Housing RU2 – Medium Lot Housing	Residential Subdivision

Subject Property Map: Drummond Court and Barnaby Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

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 Attachment A

6.3 Fire Department

- No objections to zoning

7.0 Application Chronology

N/A

Prepared by: Jenna Ratzlaff, Planner / Tracey Hillis, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment 'A' Development Engineering Memo

Schedule 'A' LUC Termination Properties

Schedule 'B' Properties to be Rezoned

Schedule 'C' Letter to Property Owners Proposed Termination of Land Use Contract (LUCT18-0002) and Rezoning (Z18-0089)