

# REPORT TO COUNCIL



**Date:** March 11, 2019

**RIM No.** 1250-40

**To:** City Manager

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

**Application:** LUCT 18-0008      **Owner:** Patricia M Phelan  
Michael and Cathy Kosick

**Address:** 1485 & 1535 Pioneer Road      **Applicant:** The City of Kelowna

**Subject:** Land Use Contract Termination (LUC 77-1046)

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

## 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;

THEREFORE, BE IT RESOLVED THAT as the underlying A1 – Agriculture 1 zone in the City of Kelowna Zoning Bylaw No. 8000 applies to the subject property under Land Use Contract LUC77-1046;

THAT Application No. LUCT18-0008 to terminate LUC77-1046 from Lot A District Lot 132 ODYD Plan 28646, Plans 27094 and 28646 located on 1485 and 1535 Pioneer Road, Kelowna, BC, be considered by Council;

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

## 2.0 Purpose

To consider an application for the early termination of Land Use Contract LUC77-1046 and revert the subject property to the underlying A1 – Agriculture 1 zone.

## 3.0 Community Planning

Staff are bringing forth and are recommending this Land Use Contract (LUC77-1046) be terminated for the subject property. The current LUC affects 2 properties, 1485 & 1535 Pioneer Road. The Land Use Contract currently restricts the use to single family residential and permits the property to be serviced with water obtained from a well located on the lands.

The property is located within the ALR and the OCP designation is REP – Resource Protection Area. The underlying zoning (A1 – Agriculture 1) fits with the established neighbourhood and is an appropriate zone for the existing land use. The Land Use Contract uses and regulations fit within the A1 – Agriculture 1 zone.

#### **4.0 Proposal**

##### **4.1 Background**

Land Use Contracts were a tool regularly used 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.

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 30<sup>th</sup> 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. 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, LUC terminations (unlike LUC discharges) do not initially apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act before the LUC is removed and the underlying zone comes into effect.

##### **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 will send additional letters after the bylaw(s) are adopted for further information. The Land Title Office will notify owners after the one-year grace period is complete to inform the property owners of which land use regulations apply to their property(ies).

Staff are not providing notification signage on the subject properties as per the Council approved Land Use Contract Termination Strategy. Notification signage was not recommended as: Land Use Contract Terminations are a City initiative, could involve hundreds of properties, and the elimination is mandated by the Local Government Act. Staff have mailed notification to all properties affected by the LUC under consideration for termination.

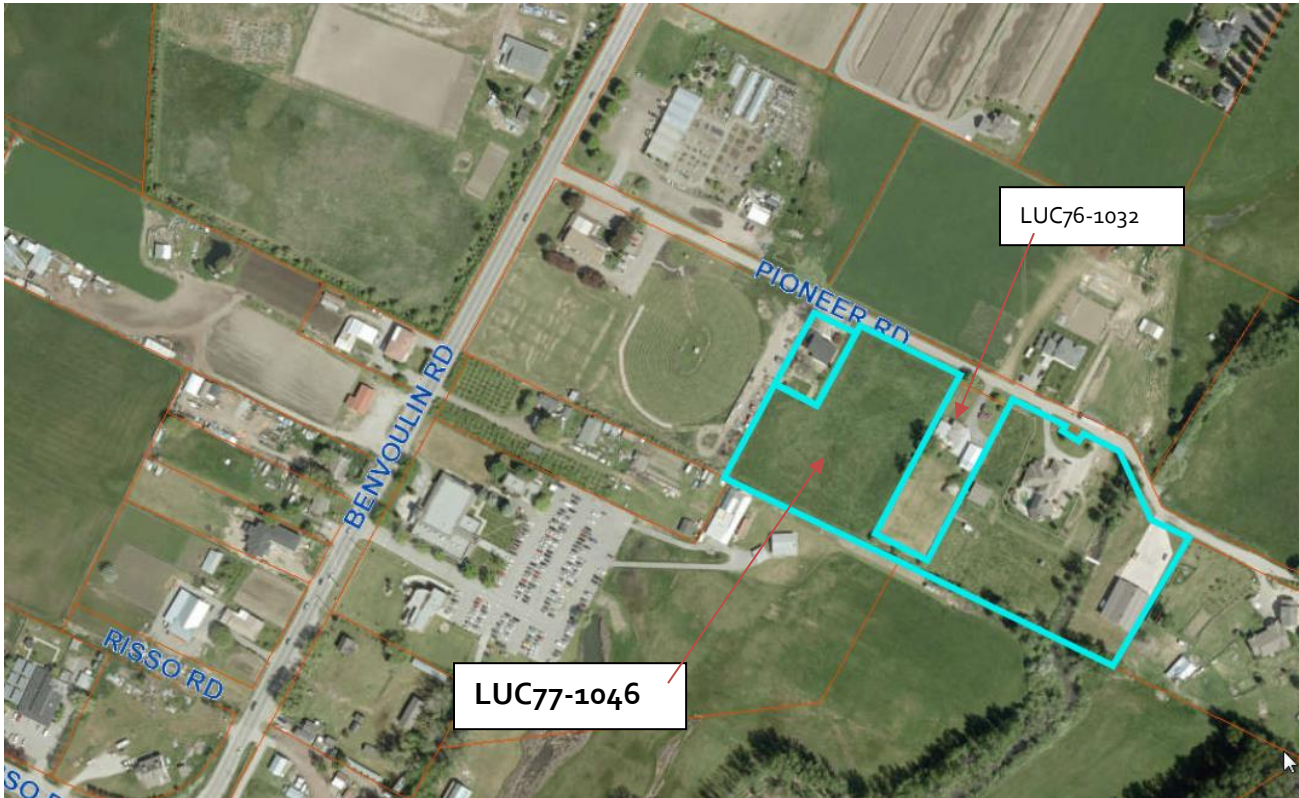
##### **4.3 Site Context**

The properties are designated REP – Resource Protection Area in the Official Community Plan, is within the ALR and the surrounding area is agriculture - farming.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture - Farming
East	A1 – Agriculture 1	Agriculture - Farming
South	A1 – Agriculture 1	Agriculture – Farming Single Family Residential
West	A1 – Agriculture 1	Agriculture - Farming

**Subject Property Map: 1485 & 1535 Pioneer Road**



**Current Development Policies**

4.4 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

**5.0 Technical Comments**

N/A

**6.0 Application Chronology**

N/A

**Report prepared by:** Jenna Ratzlaff, Planner

Corinne Boback, Legislative Coordinator

**Reviewed by:**

Terry Barton, Urban Planning Manager

**Reviewed by  
Approved for Inclusion:**

Ryan Smith, Community Planning Department Manager

**Attachments:**

None