

REPORT TO COUNCIL



Date: March 18, 2019

RIM No. 1250-40

To: City Manager

From: Community Planning Department (JR)

Application: LUCT 18-0011

Owner: Multiple Owners

Address: Multiple Addresses

Applicant: The City of Kelowna

Subject: Land Use Contract Termination (LUC 76-1080)

Existing OCP Designation: S2RES – Single / Two Unit Residential
PARK – Major Park / Open Space (public)

Existing Zone: RR3 – Rural Residential 3
P3 – Parks and Open Space

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 RR3 – Rural Residential 3 and P3 – Parks and Open Space zones in the City of Kelowna Zoning Bylaw No. 8000 applies to all the subject properties under LUC76-1080 as identified in 'Schedule A';

THAT Application No. LUCT18-0011 to terminate LUC76-1080 from properties identified in 'Schedule A', located on Hall Road, Fairhall Road, and Packers Road, Kelowna, B.C. 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 Land Use Contract termination of LUC76-1080 and revert the subject properties identified in 'Schedule A' to their underlying zones.

3.0 Community Planning

Staff are bringing forth and are recommending this Land Use Contract (LUC76-1080) be terminated for the subject properties. The current LUC affects 30 property, on Hall Road, Fairhall Road and Packers Road. The

Land Use Contract currently restricts the use of Lot 22, Section 16, Township 26, Plan KAP27463 to parks and open space. The LUC restricts the use of the remaining 29 properties to single family residential.

The underlying zoning (RR3 – Rural Residential 3 & P3 – Parks and Open Space) fits with the established neighbourhood and is an appropriate zone for the existing land use. The P3 zoned property is for the City’s neighbourhood park, known as Fairhall Park.



Properties to revert to RR3



Property to revert to P3

The Land Use Contract uses and regulations fit within the RR3 and P3 zones however, the new zone does 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 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 subject 30 properties have a total area of 46,500 m2 and are located in South East Kelowna. The properties are designated S2RES – Single / Two Unit Residential and PARK – Major Park/Open Space (public) in the Official Community Plan and the surrounding area is single family residential and agriculture.

Specifically, adjacent land uses are as follows:

| Orientation | Zoning | Land Use |
|-------------|--|---------------------------|
| North | RU1 – Large Lot Housing RR3 – Rural Residential 3 | Single Family Residential |
| East | A1 – Agriculture | Agriculture - Farming |
| South | A1 – Agriculture | Agriculture – Farming |
| West | RR3 – Rural Residential 3 | Single Family Residential |

Subject Properties Map: Hall Road, Fairhall Road, and Packers Road



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

N/A

7.0 Application Chronology

N/A

Report prepared by: Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

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

Attachments:

Schedule 'A' – Land Use Contract Termination LUC76-1080