

# REPORT TO COUNCIL



**Date:** August 26, 2019

**RIM No.** 1250-40

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT19-0005 / Z19-0080      **Owner:** Multiple Owners

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

**Affected Streets:** Spiers Road & Wallace Hill Road

**Subject:** Land Use Contract Termination and Rezoning Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

Proposed Zone: RR3 – Rural Residential 3

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## 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 for the subject properties under Land Use Contract LUC76-1059 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0005 to terminate LUC76-1059 from properties identified in 'Schedule A', located on Spiers Road and Wallace Hill Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0080 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for the subject properties identified in 'Schedule B', located on Spiers Road and Wallace Hill Road, Kelowna, BC from the A1 - Agriculture zone to RR3 – Rural Residential 3 be considered by Council;

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

AND FURTHER THAT Council, in accordance with the Local Government Act s.464(2), waive the Public Hearing for zoning Bylaw No. 11890.

## **2.0 Purpose**

To consider an application for the early termination of Land Use Contract LUC76-1059 and rezone the parcels to the RR3 – Rural Residential 3 zone as identified in 'Schedule A and B'.

## **3.0 Development Planning**

Staff are bringing forth and recommending this Land Use Contract (LUC 76-1059) be terminated and for the subject properties to be rezoned. The underlying zoning, A1 – Agriculture 1 does not fit as the subject properties are not being used for agriculture and are not within the Agricultural Land Reserve. Under the current Land Use Contract its uses are regulated in accordance with the R-1 zone in Zoning Bylaw No. 4500. The Zoning Bylaw has since been updated and obtains different uses, requirements and zonings. The equivalent of R-1 in the new the Zoning Bylaw, No. 8000, is RU1 – Large Lot Housing. However, RU1 zoning is not adequate as the subject properties are not connected to sewer. In addition, Staff do not want there to be further development of the properties as they are outside of the permanent growth boundary. All urban zones according to the Official Community Plan must be in the permanent growth boundary and connected to services. Therefore, Staff are proposing to adopt RR3 – Rural Residential 3 to the subject properties identified in Schedule 'B'.

The existing Land Use Contract (LUC) affects 4 properties on Spiers Road and 2 on Wallace Hill Road, and currently restricts the use to one single family residential dwelling per lot. The Land Use Contract uses and regulations fit within the RR3 - Rural Residential 3 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 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.

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.

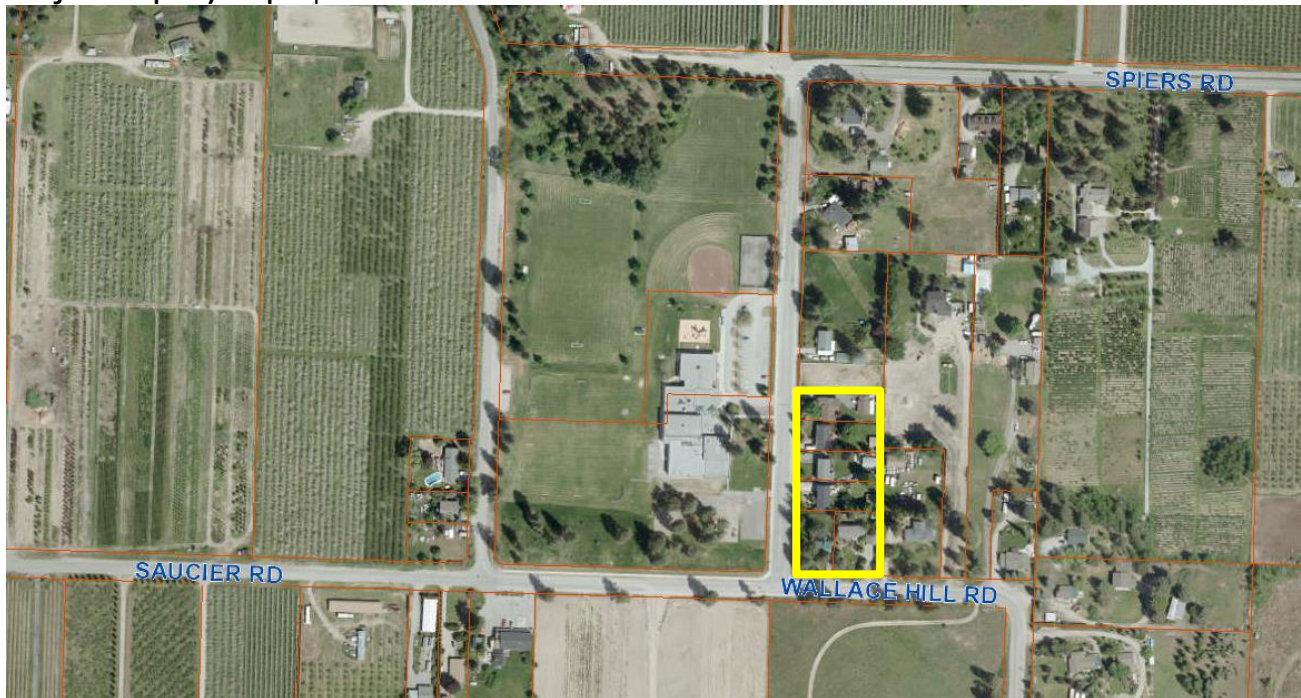
#### 4.3 Site Context

The subject properties have a total area of 8099 m<sup>2</sup> and are located on Spiers Road and Wallace Hill Road. The properties are designated REP – Resource Protection Area in the Official Community Plan and the surrounding area is residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Farming
East	RR1 – Rural Residential 1	Rural Residential
South	A1 – Agriculture 1	Farming
West	P2 – Educational & Minor Institutional	Elementary School

#### **Subject Property Map: Spiers Road & Wallace Hill Road**



## **5.0 Current Development Policies**

### **5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts**

Council Policy No. 282. Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts;

### **5.2 Kelowna Official Community Plan (OCP)**

Chapter 4: Future Land Use

*Single / Two Unit Residential (S2RES). Single detached homes for occupancy by one family, single detached homes with a secondary suite or carriage house, semi-detached buildings used for two dwelling units, modular homes, bareland strata, and those complementary uses (i.e. minor care centres, minor public services/utilities, convenience facility and neighbourhood parks), which are integral components of urban neighbourhoods.*

## **6.0 Technical Comments**

N/A

## **7.0 Application Chronology**

N/A

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

**Reviewed by:** Laura Bentley, Urban Planning & Development Policy Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Schedule A: Properties affected by LUC76-1059

Schedule B: Properties to be Rezoned to RR3