

# REPORT TO COUNCIL



**Date:** August 26, 2019

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT19-0023 / Z19-0091      **Owner:** H Zamonsky Insurance Ltd

**Address:** 894 Wilson Avenue      **Applicant:** City of Kelowna

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

Existing OCP Designation:      SIH – Sensitive Infill Housing (Low Density)

Existing Zone:      RU7 – Infill Housing

Proposed Zone:      RM3 – Low Density Multiple Housing

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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 RU7 – Infill Housing zone for Lot A, District Lot 138, ODYD, Plan KAP29862, located at 894 Wilson Avenue, Kelowna, BC, under Land Use Contract LUC77-1043 does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT19-0023 to terminate LUC77-1043 from Lot A, District Lot 138, ODYD, Plan KAP29862, located at 894 Wilson Avenue, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0091 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for Lot A, District Lot 138, ODYD, Plan KAP29862, located at 894 Wilson Avenue, Kelowna, BC, Kelowna, BC from the RU7 – Infill Housing zone to RM3 – Low Density Multiple Housing zone 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. 11903.

## **2.0 Purpose**

To consider an application for the early termination of Land Use Contract LUC77-1043 and rezone the subject property to the new underlying RM3 – Low Density Multiple Housing zone.

## **3.0 Development Planning**

Staff are bringing forth and recommending this Land Use Contract (LUC77-1043) be terminated and for the subject property to be rezoned. The underlying zone is RU7 – Infill Housing and does not fit with the current land use. Under the current Land Use Contract, it allows for one Senior Citizen home that consists of sixteen (16) residential suites. The equivalent of these uses in the current Zoning Bylaw, No. 8000, is RM3 - Low Density Multiple Housing. Therefore, Staff are proposing to adopt RM3 – Low Density Multiple Housing to the subject property. This zone is in accordance with the Official Community Plan.

The existing Land Use Contract (LUC) affects 1 property at 894 Wilson Avenue. The Land Use Contract uses and regulations fit within the RM3 - Low Density Multiple Housing 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 property has a total area of 1,538 m<sup>2</sup> and is located at 894 Wilson Avenue. The property is designated SIH – Sensitive Infill Housing (Low Density) in the Official Community Plan and the surrounding area is residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU7 – Infill Housing	Residential Subdivision
East	P2 – Education and Minor Institutional	Church
South	RU7 – Infill Housing	Residential Subdivision
West	RU7 – Infill Housing	Residential Subdivision

**Subject Property Map: 894 Wilson Avenue**



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

*Sensitive Infill Housing (Low Density) (SIH). A variety of housing types and tenures (fee simple, strata, rental), including, but not limited to, single detached homes, semi-detached homes, duplexes, triplexes, four-plexes, and combinations thereof, along with those complementary uses, that are integral components of complete, walkable neighbourhoods. The design of sensitive infill housing should respect the character of the neighbourhood, having limited massing, a positive relationship to the street, and high-quality green space. Densities and standards for housing within this designation should be consistent with the RU7 zone.*

**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