

# REPORT TO COUNCIL



**Date:** August 26, 2019

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT19-0004

**Owner:** Multiple Owners

**Address:** Multiple Addresses

**Applicant:** City of Kelowna

**Affected  
Addresses:** Mathews Road and Jaud Road

**Subject:** Land Use Contract Termination Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: RR1 – Rural Residential / 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 RR1 – Rural Residential 1 and RR3 – Rural Residential 3 zones in the City of Kelowna Zoning Bylaw No. 8000 applies to all subject properties under Land Use Contract LUC76-1105;

THAT Application No. LUCT19-0004 to terminate LUC76-1105 from properties identifies in 'Schedule A', located on Mathews Road and Jaud Road, Kelowna, B.C. be considered by Council;

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public hearing for further Consideration.

## 2.0 Purpose

To consider an application for early termination of Land Use Contract LUC76-1105 and revert the parcels to the underlying RR1 – Rural Residential 1 and RR3 – Rural Residential 3 zones as identified in 'Schedule A'.

### 3.0 Development Planning

Staff are bringing forth and are recommending this Land Use Contract (LUC76-1105) be terminated from the subject properties. The current LUC affects four properties on Mathews Road and Jaud Road. The Land Use Contract currently restricts the use to one single family dwelling.



Properties zoned RR1



Properties zoned RR3

The underlying zoning (RR1 – Rural Residential 1 and RR3 – Rural Residential 3) 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 RR1 and RR3 zone 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 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.

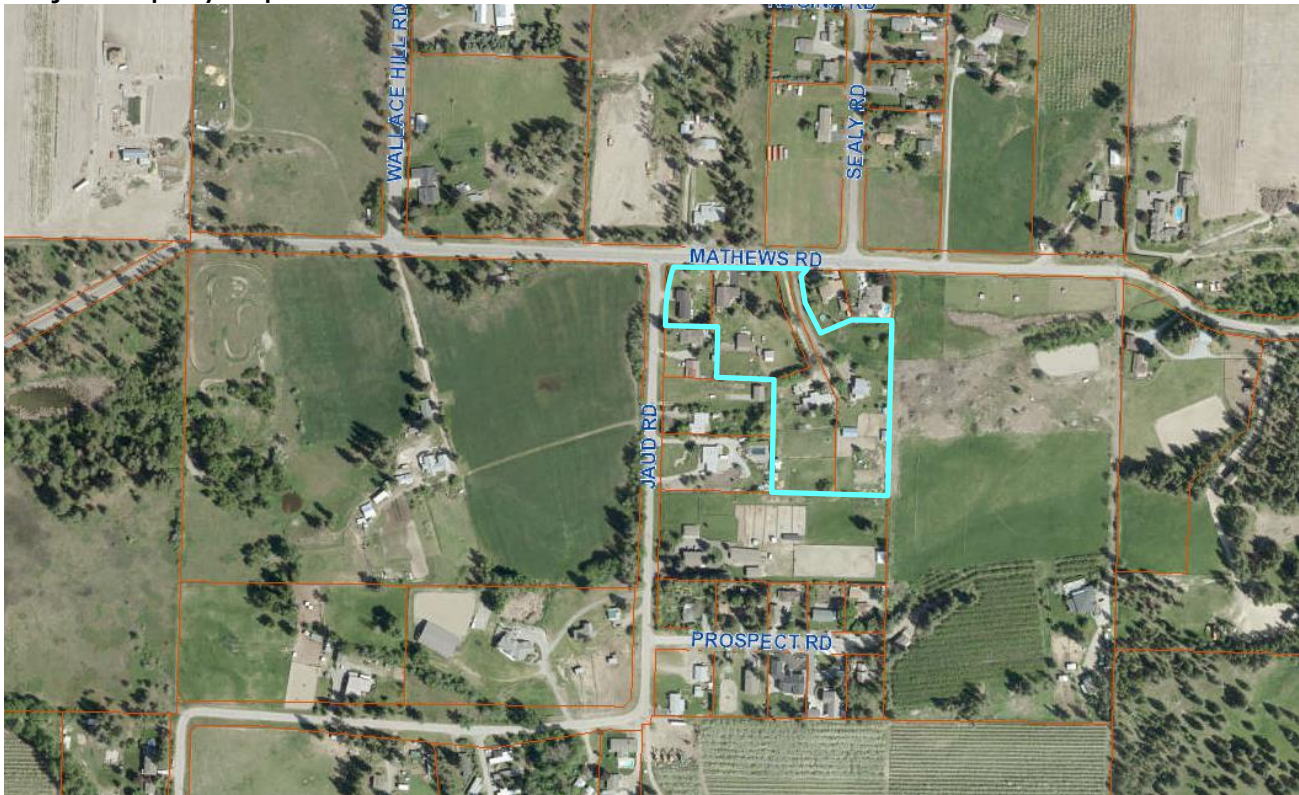
#### 4.3 Site Context

The subject properties have a total area of 23,091 m<sup>2</sup> and are located on Mathews Road and Jaud Road. The properties are designated REP – Resource Protection Area in the Official Community Plan and the surrounding area is residential and agricultural.

Specifically, adjacent land uses are as follows:

| Orientation | Zoning             | Land Use              |
|-------------|--------------------|-----------------------|
| North       | A1 – Agriculture 1 | Residential / Farming |
| East        | A1 – Agriculture 1 | Farming               |
| South       | A1 – Agriculture 1 | Residential / Farming |
| West        | A1 – Agriculture 1 | Residential / Farming |

**Subject Property Map: Mathews Rd and Jaud 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

*Resource Protection Area (REP). Rural land preserved for agricultural, environmental and recreational purposes, including the ALR, other resource lands with environmental value and protected natural open spaces, including private open space, steeply sloped lands, Natural Environment/Hazardous Condition DP Areas, and other natural features such as watercourses, water bodies, wetlands, plant and wildlife habitat, and significant aesthetic value.*

## **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 LUC76-1105