

# REPORT TO COUNCIL



**Date:** August 26, 2019

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT19-0006 / Z19-0077      **Owner:** Multiple Owners

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

**Affected Address:** Sutcliffe Court and Hartman Road

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

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RR3 – Rural Residential 3

Proposed Zone: RU1 – Large Lot Housing and P3 – Parks & 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 zone for the subject properties under Land Use Contract LUC76-1043 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0006 to terminate LUC76-1043 from properties identified in 'Schedule A', located on Sutcliffe Court and Hartman Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0077 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 Sutcliffe Court and Hartman Road, Kelowna, BC from the RR3 – Rural Residential 3 zone to RU1 – Large Lot Housing zone be considered by Council;

AND THAT Rezoning Application No. Z19-0077 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for the subject property identified in 'Schedule C', located on Hartman

Road, Kelowna, BC from the RR3 – Rural Residential 3 zone to P3 – Park & Open Space 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. 11876.

## 2.0 Purpose

To consider an application for the early termination of Land Use Contract LUC76-1043 and rezone the parcels to the RU1 – Large Lot Housing and P3 – Park & Open Space zones as identified in 'Schedule A, B and C'.

## 3.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC 76-1043) be terminated and for the subject properties to be rezoned. The underlying zoning is currently RR3 – Rural Residential 3. However, these properties fall under Section 1.7 – Non Conforming Uses of the Zoning Bylaw which states:

"Non-conforming Agricultural, Urban Residential, or Rural Residential lots less than 0.2 ha., which existed prior to August 10, 1976, shall be developed in accordance with the provisions and regulations of the RU1, RU1(c), or RU1(h) zones."



1976



2019 – Blue properties to be rezoned to RU1  
Yellow property to be rezoned to P3

The picture above shows that the development existed prior to August 10, 1976. This shows that the current zoning, RR3 – Rural Residential 3, does not fit within the established neighbourhood. Staff are proposing to adopt the RU1 – Large Lot Housing and P3 – Parks & Open Space zones as the new underlying zones to the subject properties identified in Schedule 'B' and 'C'. One of the 27 properties current use is a park and thus is proposed to adopt the P3 zone.

The existing Land Use Contract (LUC) affects 22 properties on Sutcliffe Court and 5 on Hartman Road, and currently restricts the uses to one single family residential dwelling per lot and one park. The Land Use Contract uses and regulations fit within the RU1 – Large Lot Housing and P3 – Park & Open Space zones and unlike the existing zone (RR3 - Rural Residential 3) the RU1 zone would allow for greater development in the area.

#### 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.

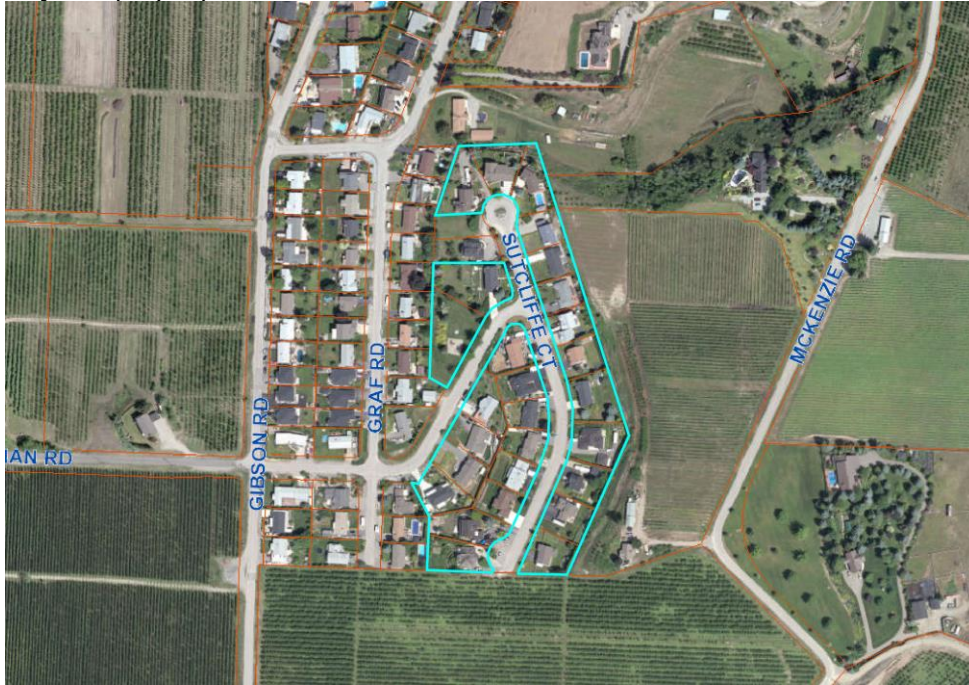
##### 4.3 Site Context

The subject properties have a total area of 35,476 m<sup>2</sup> and are located on Hartman Road and Sutcliffe Court. The properties are designated S2RES – Single/ Two Unit Residential 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	A1 – Agriculture 1	Farming
South	A1 – Agriculture 1	Farming
West	Developed in accordance with RU1 Zoning	Urban Residential

**Subject Property Map:** Sutcliffe Court and Hartman 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

**Commented [CM1]:** Minor application (no Director signoff required)

**Attachments:**

Schedule A: Properties affected by LUC76-1043

Schedule B: Properties to be Rezoned to RU<sub>1</sub>

Schedule C: Properties to be Rezoned to P<sub>3</sub>