

REPORT TO COUNCIL



Date: August 26, 2019

RIM No. 1250-40

To: Council

From: City Manager

Department: Development Planning

Application: LUCT19-0003 / Z19-0076 **Owner:** Multiple Owners

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

Affected Street: Belgo Road

Subject: Land Use Contract Termination & Rezoning Application

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

Existing Zone: RU1 – Large Lot Zoning

Proposed Zone: RR2 – Residential 2 / RR3 – Rural Residential 3

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 RU1 – Large Lot Housing zone for the subject properties under Land Use Contract LUC76-1067 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0003 to terminate LUC76-1067 from properties identified in 'Schedule A', located on Belgo Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0076 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for the property identified in 'Schedule B', located on Belgo Road, Kelowna, BC from the RU1 – Large Lot Housing zone to RR2 – Rural Residential 2 be considered by Council;

AND THAT Rezoning Application No. Z19-0076 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule C', located on Belgo Road, Kelowna, BC from the RU1 – Large Lot Housing 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 THAT Council, in accordance with the *Local Government Act* s.464(2), waive the Public Hearing for zoning Bylaw No. 11910;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered subsequent to the approval of Ministry of Transportation and Infrastructure.

2.0 Purpose

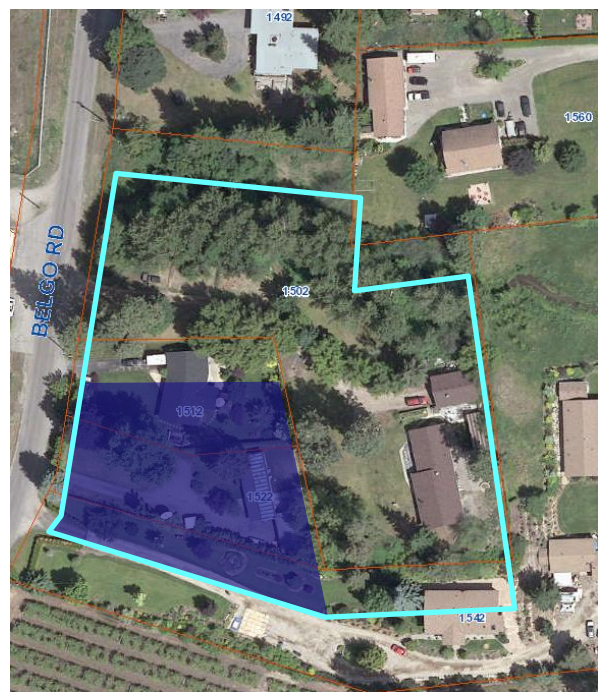
To consider an application for the early termination of Land Use Contract LUC76-1067 and rezone the parcels to RR2 – Rural Residential 2 and RR3 – Rural Residential 3 zones as identified in 'Schedule A, B and C'.

3.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC 76-1067) be terminated and for the subject properties to be rezoned. The underlying zone is RU1 – Large Lot Housing and does not fit in the established neighborhood. Under the current Land Use Contract its uses are regulated in accordance with the R-1 zone in former 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 current Zoning Bylaw, No. 8000, is RU1 – Large Lot Housing. However, RU1 zoning is not adequate as the subject properties are not connected to sewer. 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 RR2 – Rural Residential 2 and RR3 – Rural Residential 3 to the subject properties. Two zones are being proposed due to the varied lot sizes.



RR2 Property (Refer to Schedule 'B')



RR3 Properties (Refer to Schedule 'C')

The existing Land Use Contract (LUC) affects 3 properties on Belgo Road, and currently restricts the use to one single family residential dwelling per lot. The Land Use Contract uses and regulations fit within the RR2 – Rural Residential 2 and 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 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 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.

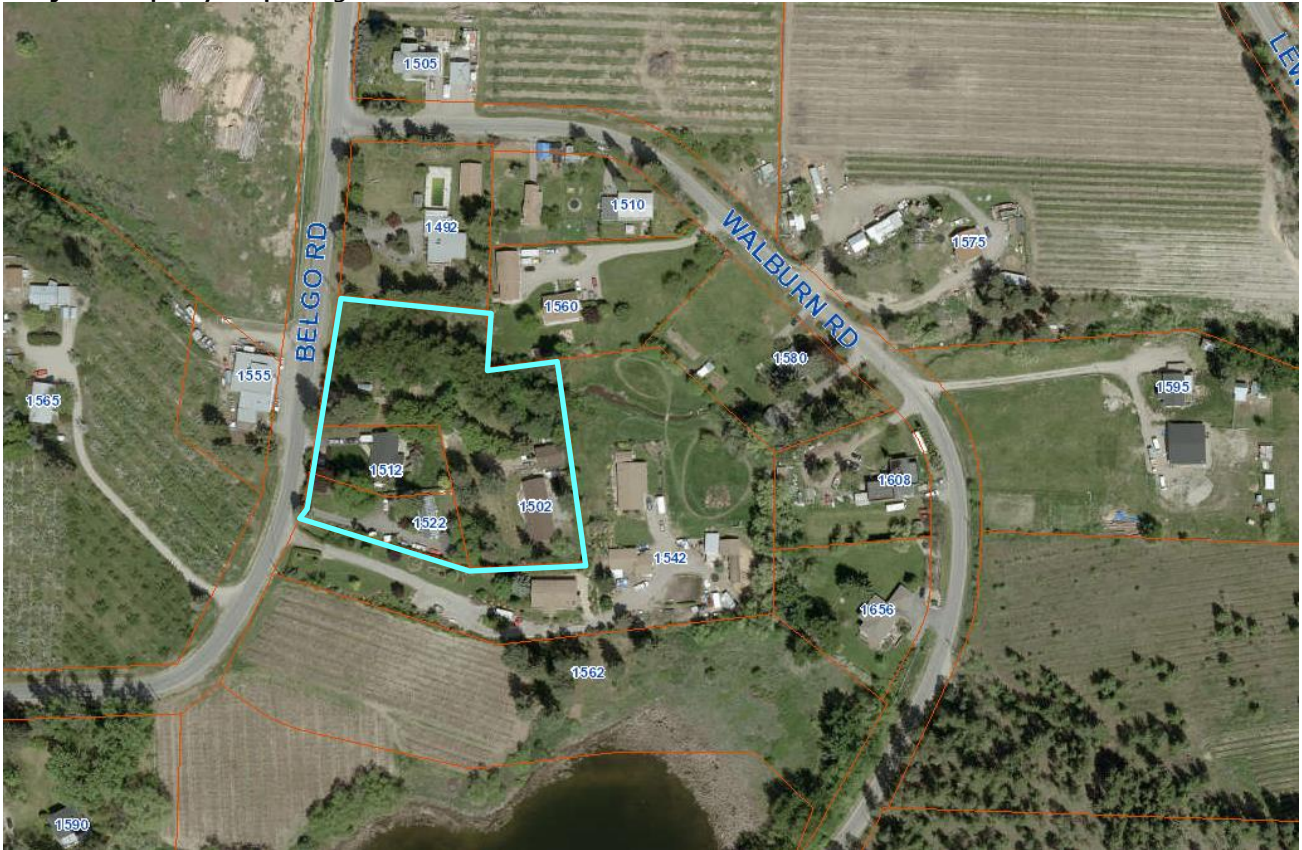
4.3 Site Context

The subject properties have a total area of 10,085 m² and are located on Belgo Road. The properties are designated S2RES – Single / Two Unit Residential & PARK – Major Park / Open Space (Public) 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	Single Family Dwelling / Farming
East	RR2 / RR3 – Rural Residential 2/3	Rural Residential
South	RR3 – Rural Residential 3	Rural Residential
West	C1 – Local Commercial / A1 – Agriculture 1	Single Family Dwelling / Farming

Subject Property Map: Belgo 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

Permanent Growth Boundary (PGB). Lands outside the permanent growth boundary will not be supported for urban uses. Non-ALR land outside the Permanent Growth Boundary will not be supported for any further parcelization.

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

6.1 Development Engineering Department

No Concerns

6.2 Ministry of Transportation and Infrastructure

No Concerns

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 LUC76-1067

Schedule A: Properties to be Rezoned to RR2

Schedule B: Properties to be Rezoned to RR3