

REPORT TO COUNCIL



Date: August 26, 2019
To: Council
From: City Manager
Department: Development Planning
Application: LUCT19-0022 / Z19-0090 **Owner:** Multiple Owners
Address: 1431 & 1441 Sutherland Avenue **Applicant:** City of Kelowna
Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: MRM – Multiple Unit Residential (Medium Density)
Existing Zone: RU6 – Two Dwelling Housing
Proposed Zone: RM5 – Medium Density Multiple Housing

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 RU6 – Two Dwelling Housing zone for the subject properties under Land Use Contract LUC75-26 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0022 to terminate LUC75-26 from properties identified in 'Schedule A', located on Sutherland Avenue, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0090 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 Sutherland Avenue, Kelowna, BC from the RU6 – Two Dwelling Housing zone to RM5 – Medium Density Multiple Housing 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. 11901;

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 LUC75-26 and revert the parcels to the new underlying RM5 – Medium Density Multiple Housing zones as identified in 'Schedule A and B'.

3.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC75-26) be terminated and for the subject properties to be rezoned. The underlying zone is RU6 – Two Dwelling Housing and does not fit in the established neighborhood. Under the current Land Use Contract its uses are regulated in accordance with the R-5 (High Density) Multi-Family Residential 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-5 in the current Zoning Bylaw, No. 8000, is RM5 – Medium Density Multiple Housing. Therefore, Staff are proposing to adopt RM5 – Medium Density Multiple Housing to the subject properties. This zone is in accordance with the Official Community Plan Future Land Use Designation.

The existing Land Use Contract (LUC) affects 2 properties at 1431 and 1441 Sutherland Avenue, and currently restricts the use to multi-family residential buildings. The Land Use Contract uses and regulations fit within the RM5 – Medium 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 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 7,042 m² and are located at 1431 and 1441 Sutherland Avenue. The property is designated MRM – Multiple Unit Residential (Medium Density) in the Official Community Plan and the surrounding area is residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P1 – Major Institutional	Senior Housing / Care
East	C3 – Community Commercial RM3 – Low Density Multiple Housing	Retail Stores Multi-family Residential
South	RU6 – Two Dwelling Housing RM1 – Four Dwelling Housing	Residential Subdivision
West	LUC78-1005 (LUCT and Rezoning Application being tracked to Termination the LUC and Rezone to RM3)	Multi-family Residential

Subject Property Map: 1431 & 1441 Sutherland 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

Multiple Unit Residential (Medium Density) (MRM). Townhouses, garden apartments, and apartment buildings. Complementary uses (i.e. care centres, minor public services/utilities, and neighbourhood parks) which are integral components of urban neighbourhoods would also be permitted. Building densities would be consistent with the provisions of the RM4 – Transitional Low Density Housing and RM5 – Medium Density Multiple Housing zones of the Zoning Bylaw and may include CD Comprehensive Development zoning for similar densities or land uses.

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

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

Attachments:

Schedule A: Properties affected by LUC75-26

Schedule B: Properties to be rezoned to RM5