REPORT TO COUNCIL

Date:	August 26, 2019		
To:	Council		
From:	City Manager		
Department:	Development Planning		
Application:	LUCT19-0019 / Z19-0087	**Owner:**	Keycam Holdings Ltd
Address:	520-528 Hollywood Road South	**Applicant:**	City of Kelowna
Subject:	Land Use Contract Termination and Rezoning Application		
Existing OCP Designation:	MRL – Multiple Unit Residential (Low Density)		
Existing Zone:	C1 – Local Commercial		
Proposed Zone:	RM3 – Low 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 C1 – Local Commercial zone for Lot 2, Section 22 Township 26, ODYD, Plan KAP22192, located at 520-528 Hollywood Road South, Kelowna, BC, under Land Use Contract LUC78-1001 does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0019 to terminate LUC78-1001 from Lot 2, Section 22 Township 26, ODYD, Plan KAP22192, located at 520-528 Hollywood Road South, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0087 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for Lot 2, Section 22 Township 26, ODYD, Plan KAP22192, located at 520-528 Hollywood Road South, Kelowna, BC, Kelowna, BC from the C1 – Local Commercial 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 THAT Council, in accordance with the *Local Government Act* s.464(2), waive the Public Hearing for zoning Bylaw No. 11897;

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 LUC78-1001 and rezone the subject property to the RM3 – Low Density Multiple Housing zone.

3.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (LUC78-1001) be terminated and for the subject property to be rezoned. The existing Land Use Contract (LUC) affects 1 property at 520-528 Hollywood Road South. The underlying zone is C1 – Local Commercial and does not fit in the established neighborhood. Under the current Land Use Contract its uses are regulated in accordance with the C-1 (Local Commercial) zone in Zoning Bylaw No. 4500. The Zoning Bylaw has since been updated and obtains different uses, requirements and zonings. The equivalent of C1 in the new the Zoning Bylaw, No. 8000, is C1 – Local Commercial. However, C1 zoning is not appropriate for the subject as it is not in accordance with the OCP Future Land Use designation, MRL – Low Density Multiple Housing. The current use is residential units 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.

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.

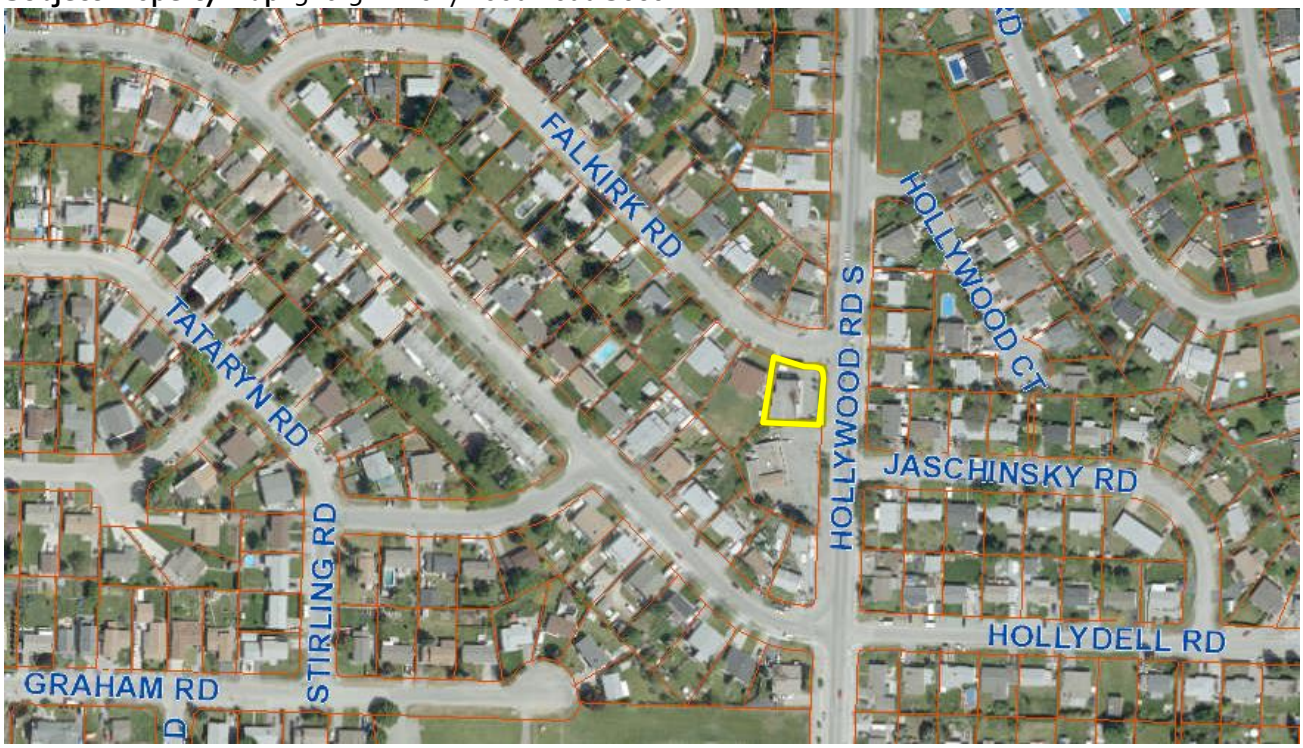
4.3 Site Context

The subject property has a total area of 920 m² and is located at 520-528 Hollywood Road South. The property is designated MRL – Multiple Unit Residential (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	RU1 – Large Lot Housing	Residential Subdivision
East	RU1 – Large Lot Housing	Residential Subdivision
South	C1 – Local Commercial	Retail Stores / Apartments
West	RU6 – Two Dwelling Housing	Residential Subdivision

Subject Property Map: 520-528 Hollywood Road South



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 (Low Density) (MRL). Townhouses, garden apartments, apartments, buildings containing three or more residential units. Complementary uses (i.e. care centres, minor public services/utilities, and neighbourhood parks), that are integral components of urban neighbourhoods would also be permitted. Building densities would be consistent with the provisions of the RM1 – Four-plex Housing, RM2 – Low Density Row Housing, or RM3 – Low 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