REPORT TO COUNCIL

Date:	August 26, 2019		
To:	Council		
From:	City Manager		
Department:	Development Planning		
Application:	LUCT19-0020 / Z19-0088	**Owner:**	Multiple Owners
Address:	1912 & 1915 Pacific Court	**Applicant:**	City of Kelowna
Subject:	Land Use Contract Termination and Rezoning Application		
Existing OCP Designation:	MXR – Mixed Use (Residential / Commercial)		
Existing Zone:	RM3 – Low Density Multiple 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 RM3 – Low Density Multiple Housing zone for the subject properties under Land Use Contract BL-3534 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT 19-0020 to terminate BL-3534 from properties identified in 'Schedule A', located on Pacific Court, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application No. Z19-0088 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 Pacific Court, Kelowna, BC from the RM3 – Low Density Multiple Housing zone to RM5 – Medium 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. 11884;

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 BL-3534 and rezone the parcels to the RM5 – Medium Density Multiple Housing zone as identified in 'Schedule A and B'.

3.0 Development Planning

Staff are bringing forth and recommending this Land Use Contract (BL-3534) be terminated and for the subject properties to be rezoned. The underlying zoning (RM3 – Low Density Multiple Housing) is not appropriate to support the existing land use. Staff are proposing to adopt the adjacent RM5 – Medium Density Multiple Housing zone. This zone is in accordance with the Official Community Plan Future Land Use Designation.

The existing Land Use Contract (LUC) affects two properties at 1912 Pacific Court and 1915 Pacific Court, and currently restricts the use to multi-family residential buildings with a height of 15m (50ft) or less. 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.

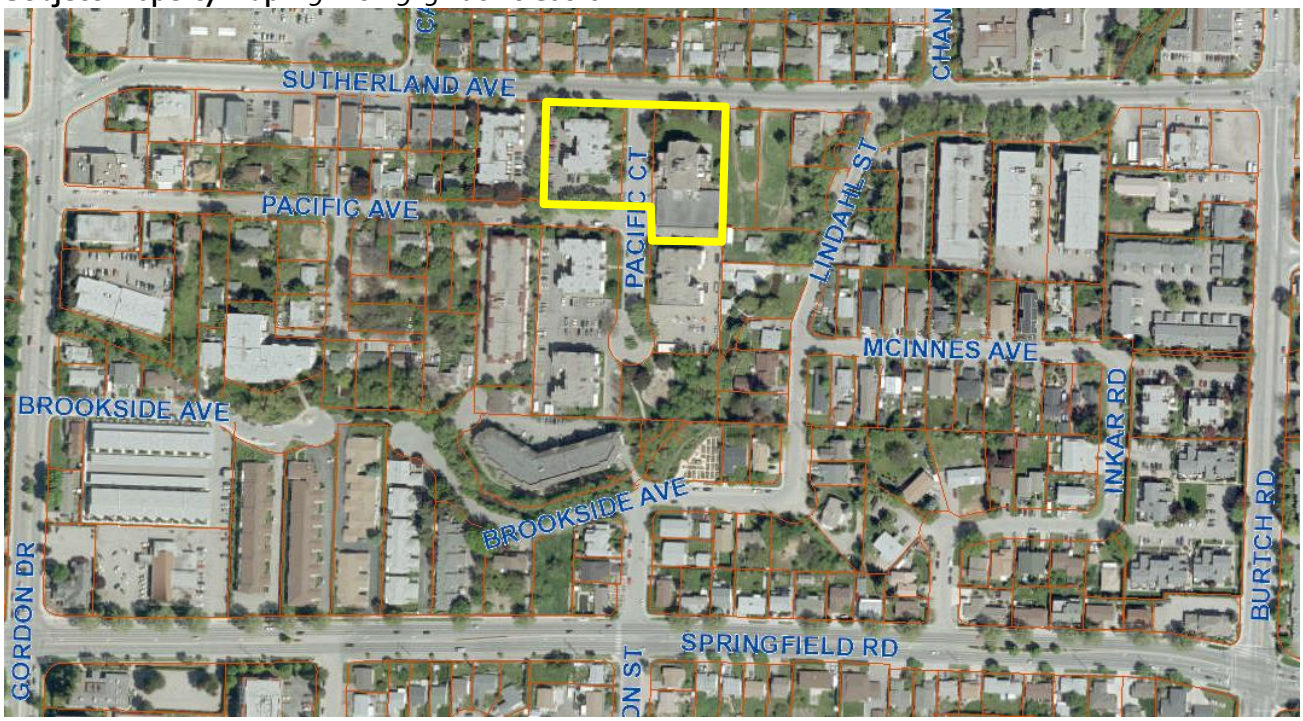
4.3 Site Context

The subject property has a total area of 7,585 m² and is located at 1912 and 1915 Pacific Court. The property is designated MXR – Mixed Use (Residential / Commercial) in the Official Community Plan and the surrounding area is residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU6 – Two Dwelling Housing	Residential Subdivision
East	RM3 – Low Density Multiple Housing	Multi-family building
South	RM5 – Medium Density Multiple Housing	Multi-family building
West	RM3 – Low Density Multiple Housing	Multi-family building

Subject Property Map: 1912 & 1915 Pacific Court



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

Mixed Use (Residential / Commercial) (MXR). Developments that provide for commercial floor space on the ground floor or above, with additional potential for residential units above the ground floor. For Urban Centres

other than the City Centre, building densities should decrease as the distance from the core of the Urban Centre increases.

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 BL-3534

Schedule B: Properties to be rezoned to RM5