

# REPORT TO COUNCIL



**Date:** February 24<sup>th</sup>, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning (TC)

**Application:** LUCT20-0001/Z20-0004      **Owner:** Multiple Owners

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

**Affected Street:** McCurdy Road, Alsgard Street and  
Leathead Road

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

**Existing OCP Designation:** IND – Industrial

**Existing Zone:** A1 – Agriculture 1

**Proposed Zone:** I2 – General Industrial

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## 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 of the termination bylaw comes into force;

THEREFORE, BE IT RESOLVED THAT as the underlying A1 – Agriculture 1 zone for the subject properties under Land Use Contract 77-1045 outlined in 'Schedule A' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

THAT Application No. LUCT20-0001 to terminate LUC77-1045 from properties identified in 'Schedule A', located on McCurdy Road, Alsgard Street and Leathead Road, Kelowna, BC, be considered by Council;

AND THAT Rezoning Application Z20-0004 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B' located on McCurdy Road, Alsgard Street and Leathead Road, Kelowna, BC from A1 – Agriculture 1 zone to I2 – General Industrial 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 Rezoning Application Z20-0004 for Rezoning Bylaw no. 11997;

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

## 2.0 Purpose

To consider an application for the early termination of Land Use Contract LUC77-1045 and rezone the parcels to I2 – General Industrial as identified in 'Schedule A' and 'Schedule B'.

## 3.0 Development Planning

Development Planning Staff are bringing forth and recommending this Land Use Contract (LUC 77-1045) be terminated and for the subject properties to be rezoned. The underlying zoning (A1 – Agriculture 1) does not fit within the industrial neighbourhood and is not appropriate to support the existing land use. Staff are proposing to adopt the I2 – General Industrial to the subject properties identified in 'Schedule A' shown below:



The existing Land Use Contract (LUC) affects 13 parcels on McCurdy Road. 925-929 McCurdy has applied for a Rezoning application and a LUC discharge, leaving 12 parcels affected by this LUC Termination. The Land Use Contract uses, and regulations fit within the I2 – General Industrial and I3 – Heavy Industrial. However, with the Land Use Contract discharge occurring at 925-929 McCurdy Road, Development Planning Staff believe that I3 isn't appropriate, due to the close proximity to residential neighbourhoods.

#### 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. This required notice was mailed to all property owners on January 22<sup>nd</sup>, 2020, with a two-week period for comments, concerns and an opportunity to apply for a Land Use Discharge and a Rezoning application, to avoid the one-year grace period.

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 are located on McCurdy Road, Alsgard Street and Leathead Road. The properties are designated IND – Industrial in the Official Community Plan and the surrounding area is a mix of commercial, industrial and residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C <sub>3</sub> – Community Commercial, C <sub>10</sub> – Service Commercial & I <sub>2</sub> – General Industrial	McCurdy Corner Shopping Centre and General Industrial
East	C <sub>10</sub> – Service Commercial, P <sub>4</sub> – Utilities, I <sub>2</sub> – General Industrial, RM <sub>2</sub> – Low Density Row Housing	School District no. 23, Service Commercial and General Industrial Warehouse/Office
South	RU <sub>1</sub> – Large Lot Housing & P <sub>3</sub> – Parks and Open Space	Single Dwelling Housing & Ben Lee Park
West	RU <sub>1</sub> – Large Lot Housing & RU <sub>6</sub> – Two Dwelling Housing	Single & Two Dwelling Housing

**Subject Property Map: McCurdy Road, Alsgard Street & Leathead 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 regards to affected contracts.

**Report prepared by:** Tyler Caswell, Planner I

**Reviewed by:** Wesley Miles, Acting Community Planning and Development Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

Schedule A: Properties affected by LUC77-1045 termination

Schedule B: Proposed zone for subject properties