

# REPORT TO COUNCIL



**Date:** June 22, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUC20-0002 OCP20-0012 & Z20-0043

**Owner:** 1231306 BC Ltd., Inc. No. BC1231306

**Address:** 1799 Hwy 33 E

**Applicant:** Urban Options Planning and Permits – Birte Decloux

**Subject:** Land Use Contract Discharge, OCP Amendment and Rezoning Application

**Existing OCP:** MRL – Multiple Unit Residential (Low Density)

**Proposed OCP:** SC – Service Commercial

**Existing Zone:** A1 – Agriculture 1

**Proposed Zone:** C10 – Service Commercial

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## 1.0 Recommendation

That Application No. LUC20-0002 to discharge LUC76-1064 from Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC, be considered by Council;

AND THAT OCP Amendment Application No. OCP20-0012 to amend the City of Kelowna Official Community Plan No. 10500 by changing the OCP Future Land Use designation of Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation as attached to the Report from the Development Planning Department dated June 22<sup>nd</sup> 2020, be considered by Council;

AND THAT Rezoning Application No. Z20-0043 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 18, Township 27, ODYD, Plan 29386, located at 1799 Hwy 33 E, Kelowna, BC from the A1 – Agriculture 1 zone to the C10 – Service Commercial zone as attached to the Report from the Development Planning Department dated June 22<sup>nd</sup> 2020, be considered by Council;

AND THAT the Land Use Contract Discharge Bylaw, the Official Community Plan Map Amending Bylaw, and the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

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

## 2.0 Purpose

To consider an application for Land Use Contract discharge, an application to amend the Official Community Plan from the MRL – Multiple Unit Residential (Low Density) designation to the SC – Service Commercial designation and a rezoning application from the A1 – Agriculture 1 zone and to the C10 – Service Commercial zone.

## 3.0 Development Planning

This site has been used as a commercial gas station as permitted under the original Land Use Contract (LUC76-1064). The original land use contract allowed for a food store and a gas station. The applicant is applying to discharge the land use contract and to change the existing land use regulations to reflect the current land use (gas station). This application is consistent with Council's direction to eliminate Land Use Contracts and the proposed OCP amendment and rezoning applications are consistent with the current land use. The applicant is not proposing to change anything onsite. Staff are recommending support for the proposed Land Use Contract discharge, rezoning, and OCP amendment applications.

### Subject Property Map: 1799 Hwy 33 e



## 3.1 Background

Land Use Contracts were a tool regularly used in the 1970's before it was eliminated on November 15<sup>th</sup> 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 30<sup>th</sup> 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20<sup>th</sup> 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.

#### **4.0 Technical Comments**

None

#### **5.0 Application Chronology**

Application Submitted: May 14<sup>th</sup> 2020.  
Public Notification: June 5<sup>th</sup> 2020

**Report prepared by:** Adam Cseke, Planner

**Reviewed by:** Terry Barton, Development Planning Department Manager

**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

#### **Attachments:**

Development Engineering Memo

Applicant Rationale and Drawing Set

LUC76-1064