

# REPORT TO COUNCIL



**Date:** October 5, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning Department

**Application:** LUCT18-0012

**Owner:** Multiple Owners

**Address:** Multiple Addresses

**Applicant:** The City of Kelowna

**Subject:** Land Use Contract Termination (LUC78-1034)

**Existing OCP Designation:** S2RES – Single/Two Unit Residential  
PARK – Major Park / Open Space (Public)

**Existing Zone:** RR3 – Rural Residential 3  
P3 – Parks and Open Space

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## 1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT18-0012 to terminate LUC78-1034 from properties identified in 'Schedule A', located on Eastwood Drive, Eastwood Court, Sunshine Road, Summerside Drive and Suncrest Court, Kelowna, B.C. be considered by Council;

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration.

## 2.0 Purpose

To consider the Land Use Contract Termination on the subject properties identified in 'Schedule A'.

## 3.0 Development Planning

Staff are bringing forth and are recommending this Land Use Contract (LUC78-1034) be terminated for the subject properties. The current LUC affects 57 properties, located on Eastwood Drive, Eastwood Court, Sunshine Road, Summerside Drive and Suncrest Court. The Land Use Contract currently restricts the use to single family residential.

The underlying zoning (RR3 – Rural Residential 3 & P3 – Parks and Open Space) fits with the established neighbourhood and is an appropriate zone for the existing land use. The P3 zoned property is used for the neighbourhood park, known as Summerside Park.



Properties to revert to RR3



Property to revert to P3

The Land Use Contract uses and regulations fit within the RR3 – Rural Residential 3 & P3 – Parks and Open Space zone however, the new zone does permit more uses (e.g. secondary suite).

#### 4.0 Proposal

##### 4.1 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 initially apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act before the LUC is removed and the underlying zone comes into effect.

##### 4.2 Project Description

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 and the elimination is mandate by the Local Government Act. 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 57 properties have a total area of 144,713m<sup>2</sup> and are located in South East Kelowna. The properties are designated S2RES – Single / Two Unit Residential and PARK – Major Park/Open Space (public) in the Official Community Plan and the surrounding area is single family residential, agriculture and recreational park space.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1 (within the ALR)	Agriculture – farming
East	P3LP – Parks and Open Space (Liquor Primary)	Gallaghers Canyon Golf Course
South	RR3 – Rural Residential 3	Single Family Residential
West	RR3 – Rural Residential 3 A1 – Agriculture 1 (within the ALR)	Single Family Residential Agriculture - farming

**Subject Property Map:** Eastwood Drive, Eastwood Court, Sunshine Road, Summerside Drive and Suncrest Court



5.0 **Current Development Policies**

5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

**Council Policy No. 282.**<sup>2</sup> Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contacts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts

**6.0 Application Chronology**

Date of Application Received: July 23<sup>rd</sup>, 2018

Date Public Consultation Completed: July 30<sup>th</sup>, 2018 and September 18<sup>th</sup>, 2020

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

**Reviewed by:** Dean Strachan, Community Planning & Development Manager

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

**Attachments**

Schedule A: Land Use Contract Termination LUC78-1034