REPORT TO COUNCIL

Date:	January 11, 2021		
To:	Council		
From:	City Manager		
Department:	Development Planning Department		
Application:	LUCT18-0013/Z18-0092	**Owner:**	Mark Fipke
Address:	5064 Lakeshore Road	**Applicant:**	The City of Kelowna
Subject:	Land Use Contract Termination and Rezoning Application		
Existing OCP Designation:	S2RES – Single/Two Unit Residential		
Existing Zone:	A1 – Agriculture 1		
Proposed Zone:	RR2 – Rural Residential 2		

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT18-0013 to terminate LUC77-1012 from Lot A Section 23 Township 28 SDYD Plan 30063, located at 5064 Lakeshore Road, Kelowna, B.C. be considered by Council;

AND THAT Rezoning Application No. Z18-0092 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A Section 23 Township 28 SDYD Plan 30063, located at 5064 Lakeshore Road, Kelowna, B.C. from the A1 – Agriculture 1 to the RR2 – Rural Residential 2 zone be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Applications No. 367 for Rezoning Bylaw No. 11939;

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

2.0 Purpose

To consider an application to proceed with the early termination of Land Use Contract 77-1012 and rezone the subject property.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC 77-1012) be terminated and for the subject property to be rezoned. The underlying zone is A1 – Agriculture 1 and is not appropriate for the current land use. The current use is a single-family home, which is permitted in the Land Use Contract. The Zoning Bylaw has since been updated and obtains different uses, requirements and zonings. The RR2 – Rural Residential 2 zone is the most appropriate zone to match the use and it matches the surrounding neighbourhood. Therefore, Staff are proposing to adopt the RR2 – Rural Residential 2 zone 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 also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Rezoning application. A development sign, in this case, is not recommended as the proposed zoning does not afford notable additional uses.

4.3 Site Context

The subject property has a total area of 5,018m^2 and is located on Lakeshore Road. The property is designated S2RES – Single/Two Unit Residential in the Official Community Plan and the surrounding area is rural residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	W1 – Recreational Water Use	Okanagan Lake
East	RR2 – Rural Residential 2	Single-Family Dwelling
South	RR3 – Rural Residential 3	Single-Family Dwelling
West	RR2 – Rural Residential 2	Single-Family Dwelling

Subject Property Map: 5064 Lakeshore Road



5.0 Current Development Policies

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.

Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Use

Single/Two Unit Residential (S2RES): Single detached homes for occupancy by one family, single detached homes with a secondary suite or carriage house, semi-detached buildings used for two dwelling units, modular homes, bareland strata, and those complementary uses (i.e. minor care centres, minor public services/utilities, convenience facility and neighbourhood parks), which are integral components of urban neighbourhoods. Suitability of non-residential developments within the neighbourhood environment will be determined on a site-specific basis. Non-residential developments causing increases in traffic, parking demands or noise in excess of what would typically be experienced in a low-density neighbourhood would not be considered suitable.

6.0 Application Chronology

Date of Application Received: August 20th, 2018
Date Public Consultation Completed: November 19th, 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