REPORT TO COUNCIL

Date:	January 11, 2020		
To:	Council		
From:	City Manager		
Department:	Development Planning Department		
Application:	Z20-0064 / LUCT20-0005	**Owner:**	Sapphire Construction Ltd., Inc.No. 84820
Address:	1511 Sutherland Ave	**Applicant:**	The City of Kelowna
Subject:	Land Use Contract Termination and Rezoning Application		
Existing OCP Designation:	MXR – Mixed Use (Residential / Commercial)		
Existing Zone:	RU1 – Large Lot Housing		
Proposed Zone:	C3 – Community Commercial		

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0005 to terminate LUC77-1061 from Lot A District Lot 141 ODYD Plan 31346, located at 1511 Sutherland Ave, Kelowna, B.C. be considered by Council;

AND THAT Rezoning Application No. Z20-0064 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A District Lot 141 ODYD Plan 31346, located at 1511 Sutherland Ave, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the C3 – Community Commercial zone be considered by Council;

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

AND THAT the notice sign requirements under Council Policy No. 367 be altered to allow for placement on the City of Kelowna's Boulevard;

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 to rezone the subject property and proceed with the early termination of Land Use Contract LUC77-1061.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC77-1061) be terminated and for the subject property to be rezoned. The underlying zone is RU1 – Large Lot Housing and is not appropriate for the current land use. The current uses are retail stores, personal service establishments, health services, financial services and a thrift store. These uses are currently permitted in the Land Use Contract, under the former Zoning Bylaw 4500's C3 – Community Commercial zone. The Zoning Bylaw has since been updated and obtains different uses, requirements and zonings. Although the C3 – Community Commercial zone doesn't match the Future Land Use of MXR – Mixed Used (Residential / Commercial), this is the most appropriate zone, as it allows for most of the existing uses and it matches the surrounding area. Any uses that don't fit in the C3 zone can remain and will be considered legal non-conforming. Therefore, Staff are proposing to adopt the C3 – Community Commercial zone to the subject property.

The existing Land Use Contract (LUC) affects one property at 1511 Sutherland Ave, and currently restricts the uses to Bylaw 4500's C3 – Community Commercial zone. The Land Use Contract uses, and regulations largely fit within the C3 – Community Commercial 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 also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Due to the file being Staff initiated, Staff suggest Council Policy #367 development signage requirements be altered to allow for the development signs to be placed on the City of Kelowna's boulevard, rather than on the subject property.

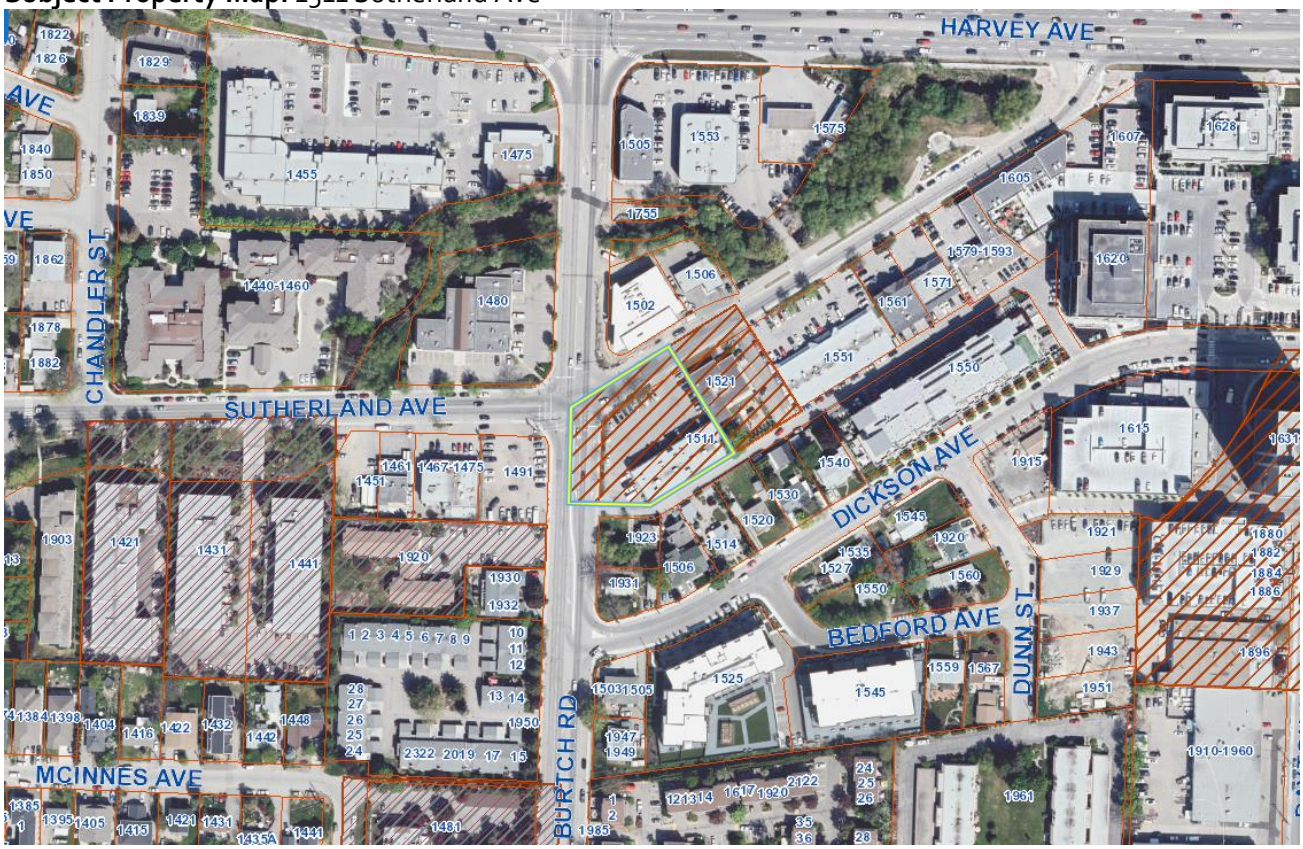
4.3 Site Context

The subject property has a total area of 2,487m^2 and is located on 1511 Sutherland Ave. The property has been designated MXR – Mixed Use (Residential / Commercial) in the Official Community Plan and the surrounding area is a mix of MXR – Mixed Use (Residential / Commercial), MRM – Multiple Unit Residential (Medium Density) and PARK – Major Park / Open Space (public).

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C3 – Community Commercial	Retail stores
East	C3 – Community Commercial (Under LUC78-1004)	Childcare centre, major
South	RU1 – Large Lot Housing	Single-family home(s)
West	C3 – Community Commercial	Vacant (former gas bar)

Subject Property Map: 1511 Sutherland Ave



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

5.2 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.

6.0 Application Chronology

Date of Application Received: August 5th, 2020
Date Public Consultation Completed: October 1st, 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