

REPORT TO COUNCIL



Date: January 11, 2021

To: Council

From: City Manager

Department: Development Planning Department

Application: LUCT20-0007/Z20-0068 **Owner:** Steven Carl Wilson & Piblet Enterprises Ltd. Inc.No. 575424

Address: 3969 Lakeshore Road **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: COMM – Commercial

Existing Zone: C1 – Local Commercial

Proposed Zone: C2 – Neighbourhood Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0007 to terminate LUC77-1005 from Lot A Section 6 Township 26 ODYD Plan 28767, located at 3969 Lakeshore Road, Kelowna, B.C. be considered by Council;

AND THAT Rezoning Application No. Z20-0068 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A Section 6 Township 26 ODYD Plan 28767, located at 3969 Lakeshore Road, Kelowna, B.C. from the C1 – Local Commercial zone to the C2 – Neighbourhood Commercial zone be considered by Council;

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 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 rezone the subject property and proceed with the early termination of Land Use Contract LUC77-1005.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC 77-1005) be terminated and for the subject property to be rezoned. The underlying zone is C1 – Local Commercial and is not appropriate for the current land use. The current use is a veterinarian clinic, which is permitted in the Land Use Contract, in addition to all the uses within C1 – Local Commercial zone in former Zoning Bylaw No. 4500. The Zoning Bylaw has since been updated and obtains different uses, requirements and zonings. The C2 – Neighbourhood Commercial zone is the most appropriate zone to match the use, as it allows for minor veterinarian clinics and it matches the surrounding neighbourhood. Therefore, Staff are proposing to adopt C2 – Neighbourhood Commercial zone to the subject property. This zone is in accordance with the Official Community Plan.

The existing Land Use Contract (LUC) affects 1 property at 3969 Lakeshore Road, and currently restricts the use to a veterinarian clinic or the uses in the previous C1 – Local Commercial Zone. The Land Use Contract uses, and regulations fit within the C2 – Neighbourhood 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 the 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.

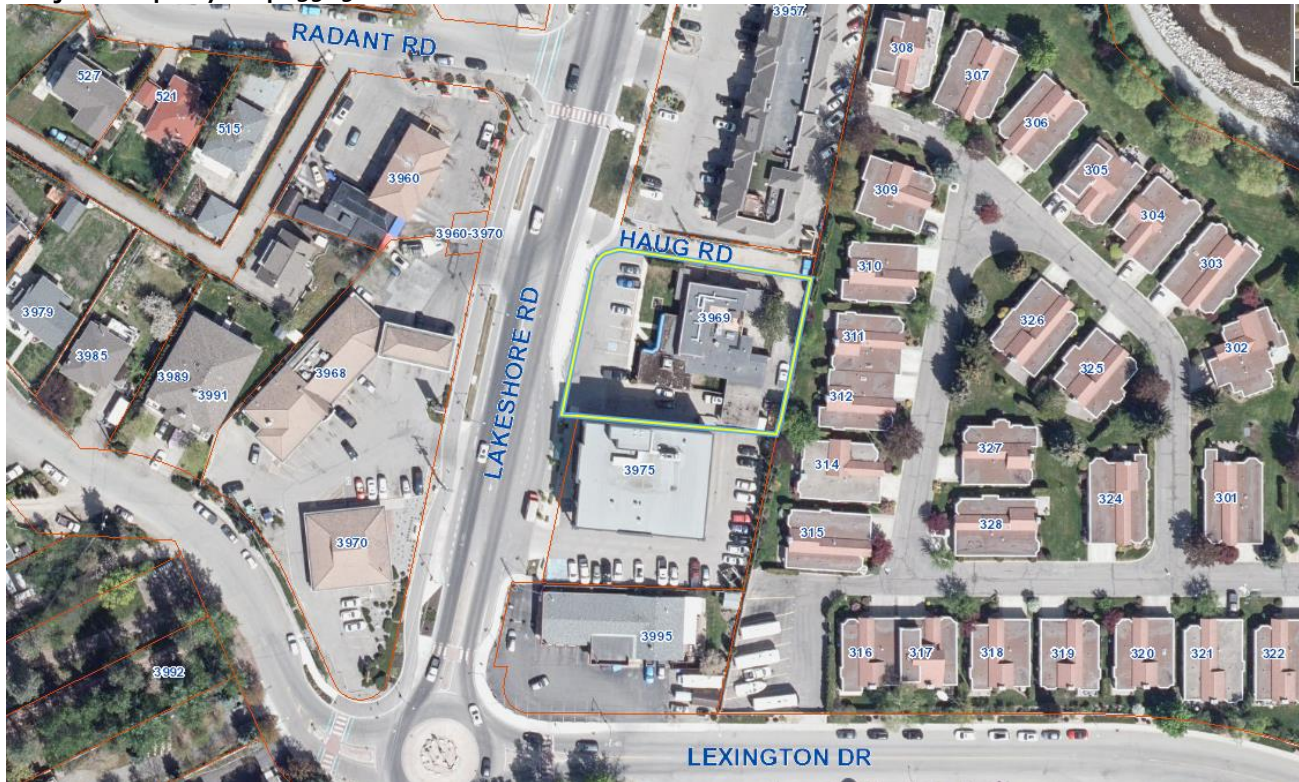
4.3 Site Context

The subject property has a total area of 1,862m² and is located on Lakeshore Road. The property is designated COMM - Commercial in the Official Community Plan and the surrounding area is a mix between commercial and residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C2 – Neighbourhood Commercial	Food primary establishments, health services and retail stores.
East	RU5 – Bareland Strata Housing	Single dwelling housing
South	C3 – Community Commercial	Convenience retail stores
West	C2 – Neighbourhood Commercial	Convenience retail stores, food primary establishments and personal service establishments

Subject Property Map: 3969 Lakeshore 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 regard to affected contracts.

5.2 Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Use

Commercial (COMM): Developments for the sale of goods and services. Integration of residential uses into commercial developments as mixed-use projects is encouraged in Urban Centres, provided that the ground floor use remains commercial. This designation may also include CD Comprehensive Development zoning that includes commercial uses.

6.o Application Chronology

Date of Application Initiation: August 12th, 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