

REPORT TO COUNCIL



Date: May 31st, 2021

To: Council

From: City Manager

Department: Development Planning Department

Application: LUCT21-0002

Owner: Multiple Owners

Address: Multiple Addresses

Applicant: The City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: SC – Service Commercial

Existing Zone: C10 – Service Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT21-0002 to terminate LUC76-1114 from properties identified in 'Schedule A', located at Banks Road and Baron Road, Kelowna, BC 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 proceed with the early termination of LUC76-1114 and to revert the parcels as identified in 'Schedule A' back to the underlying C10 – Service Commercial zone.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1114 from the subject properties. The current Land Use Contract affects sixteen properties on Banks Road and Baron Road and restricts the properties to the former Zoning Bylaw No. 4500's C7 – Service Commercial. Staff believe the underlying zone of C10 – Service Commercial is appropriate as it best matches the uses allowed in the Land Use Contract, the Future Land Use Designation, and the existing uses at the affected addresses. Therefore, Staff are proposing to adopt the C10 – Service Commercial zone to the subject properties.

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 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 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 development 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.

4.3 Site Context

The Land Use Contract encompasses 16 properties on Banks and Baron Road and are in the Central City OCP Sector. The properties all have the Future Land Use Designation of SC – Service Commercial. The surrounding area is primarily Service Commercial, Commercial, and Residential.

Subject Property Map: Banks Road and Baron 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.

6.0 Application Chronology

Date of Application Set Up: April 29th, 2021

Date of Owner Notification: May 3rd, 2021

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Reviewed by: Terry Barton, Development Planning Department Manager

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

Attachments:

Schedule A: Affected Addresses