

REPORT TO COUNCIL



Date: September 12, 2016

RIM No. 1250-40

To: City Manager

From: Community Planning Department (JR)

Application: LUC16-0003 **Owner:** Krista Eve Almeida & Stephen Glegg

Address: 1960 Paly Road **Applicant:** Krista Eve Almeida

Subject: Land Use Contract Discharge

Existing OCP Designation: S2RES - Single / Two Unit Residential

Existing Zone: RR3 - Rural Residential 3

1.0 Recommendation

THAT Application No. LUC16-0003 to discharge LUC 78-1024 from Lot 17, Section 17, Township 23, ODYD, District Plan 31701, located on 1960 Paly Road, Kelowna, BC, be considered by Council;
AND THAT the Land Use Contract Discharge be forwarded to a Public Hearing for further consideration;

2.0 Purpose

To consider an application to discharge the existing Land Use Contract on the subject property.

3.0 Community Planning

The applicant is seeking to legalize their suite. However, the property is currently under regulation of a Land Use Contract which does not permit a secondary suite. The existing Land Use Contract (LUC) on the subject property was created in 1976 to allow for one single family residential dwelling per lot on Bennett Road and Paly Road. Community Planning supports the request for the LUC discharge as it complies with the 2014 amendment of the Local Government Act.

The underlying zoning (RR3 - Rural Residential 3) fits with the established neighbourhood and is an appropriate zone for the existing land use. The Land Use Contract uses and regulations fit within the RR3 zone however, the new zone does permit more uses (e.g. secondary suite).

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation by individually contacting the surrounding neighbours within a 50 metre radius.

4.0 Proposal

4.1 Background

The province first experimented with contract zoning in 1971. The Land Use Contract was a tool that entered into use 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.

However, 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. From 1978 to 2014, municipalities or the owners of the land could not unilaterally discharge, cancel, or modify the land use contract without the other party's consent. 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. This provides property owners with ten years to complete any development authorized by their land use contract unless the LUC is terminated prior to that date. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination.

In addition, local governments must provide notice to each owner that the termination of land use contract is occurring 1 year after adoption and must provide notice of what the new zoning regulations are that apply to the land.

4.2 Project Description

The applicant is seeking to legalize their suite. The current LUC does not permit a suite as a secondary use, however the underlying zone (RR3) does. Therefore, to allow a secondary suite the current LUC must be discharged. The property has an existing single family dwelling, where the suite is located, and an accessory building.

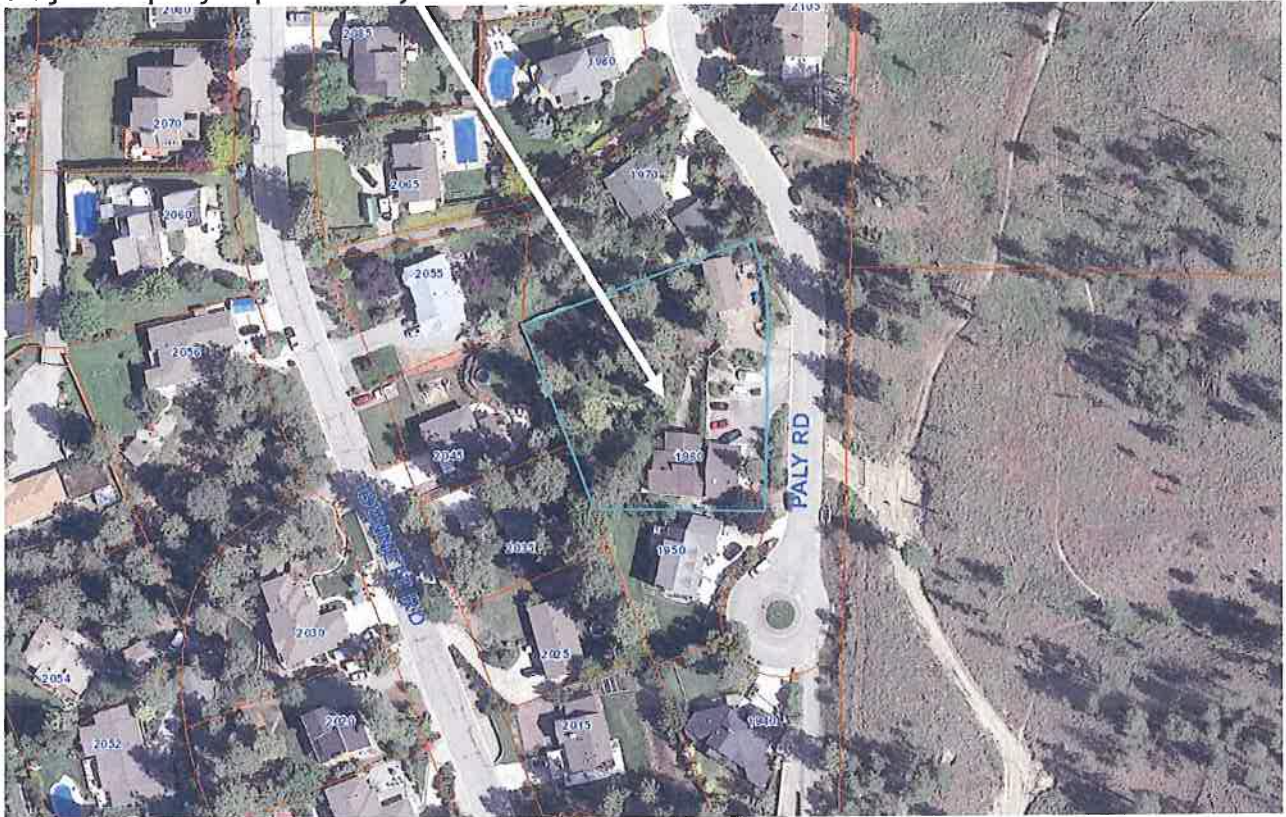
4.3 Site Context

The subject property is located at the end of Paly Road. The property is designated S2RES - Single / Two Unit Residential in the Official Community Plan and the surrounding area is low density residential. The subject property is 3035 m².

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	LUC78-1024 (RR3 - Rural Residential 3)	Single family residential
East	A1 - Agiculture	Farming
South	LUC78-1024 (RR3 - Rural Residential 3)	Single family residential
West	LUC78-1024 (RR3 - Rural Residential 3)	Single family residential

Subject Property Map: 1960 Paly Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

5.2 Council Policy No. 282 - Strategy for Elimination of Remaining Land Use Contracts

Council Policy No. 282.² Includes the following statements:

- That a Land Use Contract be discharged for any contract where there has been a change in use or density from what it was originally intended by the Land Use Contract;
- 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;
- That priority be given to terminate Land Use Contracts having a significant financial impact or those Land Use Contract that enable development contrary to the fulfilment of community objectives.

¹ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

6.0 Technical Comments

6.1 Building & Permitting Department

No objections

6.2 Development Engineering Department

See attachment

7.0 Application Chronology

Date of Application Received: July 25, 2016
Date Public Consultation Completed: August 16, 2016

Report prepared by:

Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:
Development Engineering Services Memo