

REPORT TO COUNCIL



Date: June 28th, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0020

Owner: 684974 BC Ltd., Inc.No. 684973

Address: 733 Finns Road

Applicant: The City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: COMM – Commercial

Existing Zone: I2 – General Industrial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0020 to terminate LUC76-1056 from Lot 2 Section 34 Township 26 ODYD Plan 3389, located at 733 Finns Road, Kelowna, BC, 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 be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To proceed with the early termination of LUC76-1056 and to revert the parcel to the underlying I2 – General Industrial zone.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1056 from the subject property. The current LUC affects one property at 733 Finns Road and restricts the property to the former Zoning Bylaw no. 4500's C1a – Rural Local Commercial zone in addition to a metal fabrication business. The Land Use Contract was completed in 1976 because the City of Kelowna annexed lands to the North and carried out a mass rezoning. The City didn't want to impose economic hardship on the development and created the LUC to allow for the metal fabrication business to continue to operate.

Staff believe the underlying zone of I2 – General Industrial zone is appropriate it allows for the existing uses of storage facility and general industrial uses and also matches the surrounding area.

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 607m² and is located on Finns Road, near the intersection with Fitzpatrick Road. The property is in the Rutland OCP Sector and has the Future Land Use Designation of COMM – Commercial and the surrounding area is also designated for commercial.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I2 – General Industrial	Storage and warehousing
East	I2 – General Industrial	Storage and warehousing
South	I2 – General Industrial	Future general industrial uses
West	I2 – General Industrial	Automobile sales

Subject Property Map: 733 Finns 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: December 11th, 2020
Date Public Consultation Completed: December 18th, 2020

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