

REPORT TO COUNCIL



Date: July 12th, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0010, Z20-0084 **Owner:** Dennis Victor Miller and Kimberley Marie Miller

Address: 2840 Boyd Road **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

Proposed Zone: RU1 – Large Lot Housing

1.0 Recommendation

THAT Land Use Contract Termination No. LUCT20-0010 to terminate LUC76-1112 from Lot 2 District Lot 130 ODYD Plan KAP89521, located at 2840 Boyd Road, Kelowna, BC be considered by Council;

AND THAT Rezoning Application No. Z20-0084 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 130 ODYD Plan KAP89521, located at 2840 Boyd Road, Kelowna, BC from the A1 – Agriculture 1 to the RU1 – Large Lot Housing zone be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Applications No. 367 for Rezoning Bylaw No. 12221.

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 early termination of THE Land Use Contract (LUC76-1112) and to rezone the subject property from the A1 – Agriculture 1 zone to RU1 – Large Lot Housing zone.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC76-1112) to be terminated and for the subject property to be rezoned. The underlying zone is A1 – Agriculture 1 and is not appropriate for the current land use. The current use is a single-family home, which is permitted in the Land Use Contract. The LUC gives the subject property the development regulations of the former Zoning Bylaw no. 4500’s R1 zone, so the RU1 zone is the most appropriate zone to match the uses. Therefore, Staff are proposing to adopt the RU1 – Large Lot Housing zone for the subject property.

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

Staff sent a letter to the owner of the property on September 22nd, 2020, explaining the process and providing contact information. Local governments must also 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. Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Land Use Contract Termination application. Development Signs, in this case, are not recommended as the LUCT is City-initiated, and the proposed RU1 is a minor land use change.

4.3 Site Context

The subject property is on Boyd Road in the South Pandosy – KLO OCP Sector. The property has the Future Land Use Designation of REP – Resource Protection. The surrounding area is primarily zoned A1 – Agriculture 1 and has the Future Land Use Designation of S2RES – Single/Two Unit Residential and REP – Resource Protection.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Vacant Single-Family Lot
East	A1 – Agriculture 1	Vacant Single-Family Lot
South	A1 – Agriculture 1	Single-Family Home (s)
West	A1 – Agriculture 1	Vacant Single-Family Lot

Subject Property Map: 2840 Boyd Road



5.0 Current Development Policies

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: September 11, 2020
 Date of Owner Notification: September 22, 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