

# REPORT TO COUNCIL



**Date:** June 28<sup>th</sup>, 2021

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT20-0012      **Owner:** Sun-Mar Investments Ltd.,  
Inc.No. 154934

**Address:** 663-671 Finns Road      **Applicant:** The City of Kelowna

**Subject:** Land Use Contract Termination

**Existing OCP Designation:** COMM – Commercial

**Existing Zone:** C2rls – Neighbourhood Commercial (Retail Liquor Sales)

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## 1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0012 to terminate LUC76-1103 from Lot 1 Section 34 Township 26 ODYD Plan 42743, located at 663-671 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 LUC76-1103 and to revert the parcel to the underlying C2rls – Neighbourhood Commercial (Retail Liquor Sales) zone.

## 3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1103 from the subject property. The current LUC affects one property at 663-671 Finns Road and restrict the property to the former Zoning Bylaw no.4500's C-1a – Rural-Local Commercial, as well as automobile alignment shop, sheet metal shop and auto body shop. The Land Use Contract was completed in 1976 because the City of Kelowna annexed lands to the North and created the LUC to allow for the metal fabrication business to continue to operate.

The underlying zone of C2rls – Neighbourhood Commercial (Retail Liquor Sales) is appropriate because it matches the existing use of retail liquor sales and liquor primary business. The LUC allowed for several industrial uses that are no longer active, so a commercial zoning matches both the Future Land Use Designation and the existing uses.

**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 roughly 4,100m<sup>2</sup> and is located on Finns Road, on the intersection with Findlay Road. The property is in the Rutland OCP Sector and has the Future Land Use Designation of COMM – Commercial and the surrounding area is a mix between Commercial, Industrial and Resource Protection.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I2 – General Industrial	General Industrial Uses
East	A1 – Agriculture	Active Agriculture
South	A1 – Agriculture 1	Rural Residential
West	I2 – General Industrial	General Industrial Uses

**Subject Property Map: 663-671 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 9<sup>th</sup>, 2020  
Date Public Consultation Completed: December 18<sup>th</sup>, 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