

REPORT TO COUNCIL



Date: August 23rd, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0011 **Owner:** Multiple Owners

Address: 2918 Tutt St, 2970 Tutt St, 2955 Pandosy St & 2949 Pandosy St **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: MXR – Mixed Use (Residential / Commercial)

Existing Zone: C₄ – Urban Centre Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0011 to terminate LUC76-1044 from the subject properties identified in 'Schedule A' located on Tutt Street and Pandosy Street, 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 future consideration.

2.0 Purpose

To proceed with the early termination of LUC76-1044 on the subject properties identified in 'Schedule A'.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1044 from the subject properties. The current LUC affects four properties on Tutt Street and Pandosy Street. The LUC restricts the property to former Zoning Bylaw no. 4500's C₃ – Community Commercial zone in addition to a retail building supply business. The property is in the South Pandosy Urban Centre and the underlying zone of C₄ – Urban Centre Commercial is appropriate as it also allows for all the existing uses on the 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 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.

Staff are recommending that the required Development Signs as part of Council Notification Policy #367, be placed on the City’s boulevard to not offer any burden on the owners or tenants of the building.

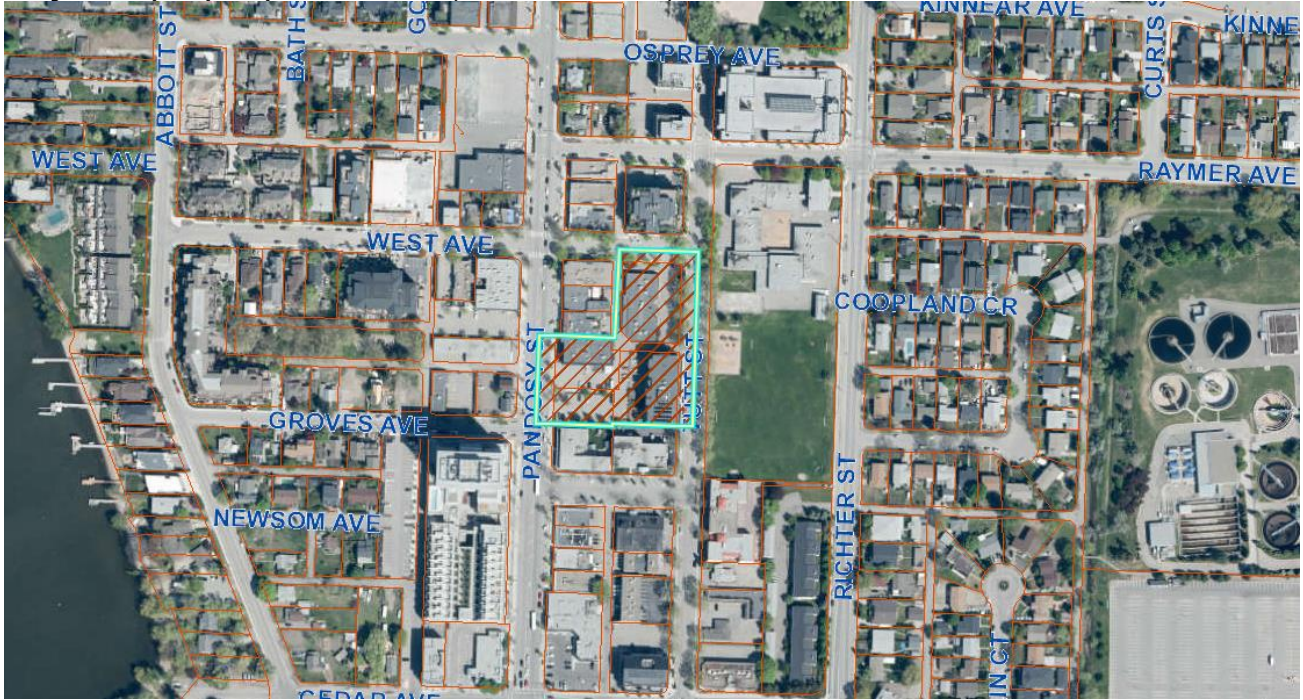
4.3 Site Context

The Land Use Contract affects four properties along Pandosy St and Tutt St. These properties are near the intersection with West Ave. The properties are in the South Pandosy OCP Sector and have the Future Land Use Designation of MXR – Mixed Use (Residential / Commercial).

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 – Urban Centre Commercial	Retail & Food Primary Establishment
East	P2 – Education and Minor Institutional	Elementary School
South	C4 – Urban Centre Commercial	Retail
West	C4 – Urban Centre Commercial	Retail and Surface Parking

Subject Property Map: 2949 Pandosy St, 2955 Pandosy St, 2918 Tutt St & 2970 Tutt St



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

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 affect contracts.

5.2 Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Use

Mixed Use (Residential / Commercial) (MXR). Developments that provide for commercial space on the ground floor or above, with additional potential for residential units above the ground floor. For Urban Centres other than the City Centre, building densities should decrease as the distance from the core of the Urban Centre increases. Other relevant policies include Policy 5.5.1 Building Height and Chapter 17 – Urban Centre definition. Maximum density at the centre of the core would be consistent with zoning as follows: City Centre – C7 zone; Rutland – C7 zone; Pandosy – C4 zone; Midtown – C6 zone; Capri/Landmark – C4 zone.

6.0 Application Chronology

Date of Application Received: December 9th, 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

Attachments:

Schedule A: Affected Addresses