

REPORT TO COUNCIL



Date: February 7th, 2022

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0019

Owner: PMC (Harvey) Holdings Corp.,
Inc.No. BC0783456

Address: 1574 Harvey Avenue

Applicant: The City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: C-NHD – Core Area Neighbourhood

Existing Zone: C10 – Service Commercial & C3 – Community Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0019 to terminate LUC78-1021 from Lot 3 Section 20 Township 26 ODYD Plan 32159 located at 1574 Harvey Avenue, Kelowna, BC, be considered by Council;

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT the notice sign requirements under Council Policy No. 367 be altered to allow for placement on the City of Kelowna's boulevard.

2.0 Purpose

To proceed with early termination of Land Use Contract LUC78-1021 and to revert the parcel to the underlying zones of C10 – Service Commercial & C3 – Community Commercial.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC78-1021 from the subject property. The LUC affects one property at 1574 Harvey Avenue and restricts the property to the Zoning Bylaw No. 4500's C3 – Community Commercial zone. The underlying zones of C3 – Community Commercial and C10 – Service Commercial are appropriate because the existing fitness and racquet centre is within the C10 portion of the property, while the commercial portion of the site is within the C3 portion. The existing uses fit within the underlying zones.

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.

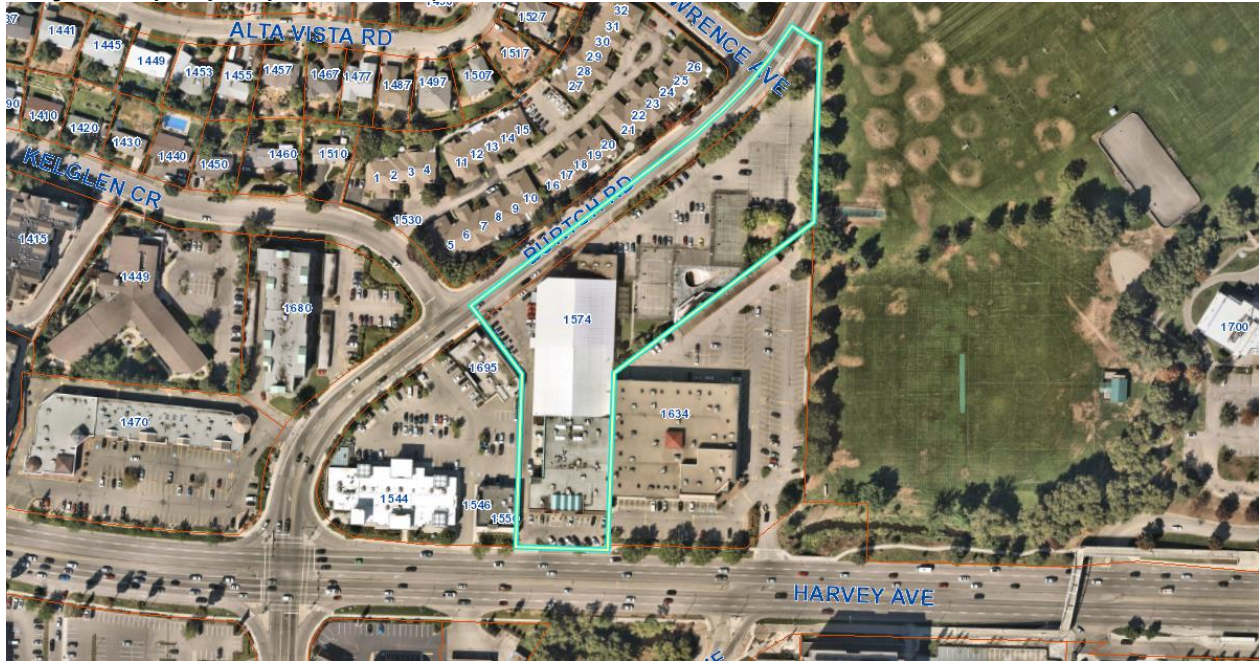
4.3 Site Context

The subject property is located on both Burtch Road and Harvey Avenue. The property has been designated Core Area Neighbourhood in the Official Community Plan, which is largely consistent with the surrounding area.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RM ₃ – Low Density Multiple Housing	Apartment Housing
East	C ₃ – Community Commercial & P1P – Major Institutional (Liquor Primary)	Service Commercial and Parkinson Rec Centre
South	C ₃ – Community Commercial	Service Commercial
West	C ₃ – Community Commercial	General Commercial Uses

Subject Property Map: 1574 Harvey Avenue



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 Received: December 10th, 2020
Date Public Consultation Completed: December 18th, 2020 & January 10th, 2022

Report prepared by: Tyler Caswell, Planner
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