

# REPORT TO COUNCIL



**Date:** February 7<sup>th</sup>, 2022

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** LUCT20-0013

**Owner:** My Neighbourhood Restaurant Ltd., Inc. No. BCo775737

**Address:** 260-262 Hwy 33 W

**Applicant:** The City of Kelowna

**Subject:** Land Use Contract Termination

**Existing OCP Designation:** UC – Urban Centre

**Existing Zone:** C<sub>4</sub> – Urban Centre Commercial

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## 1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0013 to terminate LUC76-11 from Lot 2 Section 26 Township 26 ODYD Plan 4338 Except Plan 39372 located at 260-262 Hwy 33 W, Kelowna, BC, be considered by Council;

AND 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 Land Use Contract LUC76-11 and to revert the parcel to the underlying C<sub>4</sub> – Urban Centre Commercial zone.

## 3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-11 from the subject property. The current LUC affects one property at 260-262 Hwy 33 W and restricts the property to Zoning Bylaw No. 4500's C<sub>3</sub> – Community Commercial zone with the ability to also operate a veterinary services, animal hospital and animal beauty parlor including boarding and training of dogs and cats. The underlying zone of C<sub>4</sub> – Urban Centre Commercial is appropriate because this property is in the Rutland Urban Centre and the use of food-primary establishment is a principal use within the existing land use.

**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.

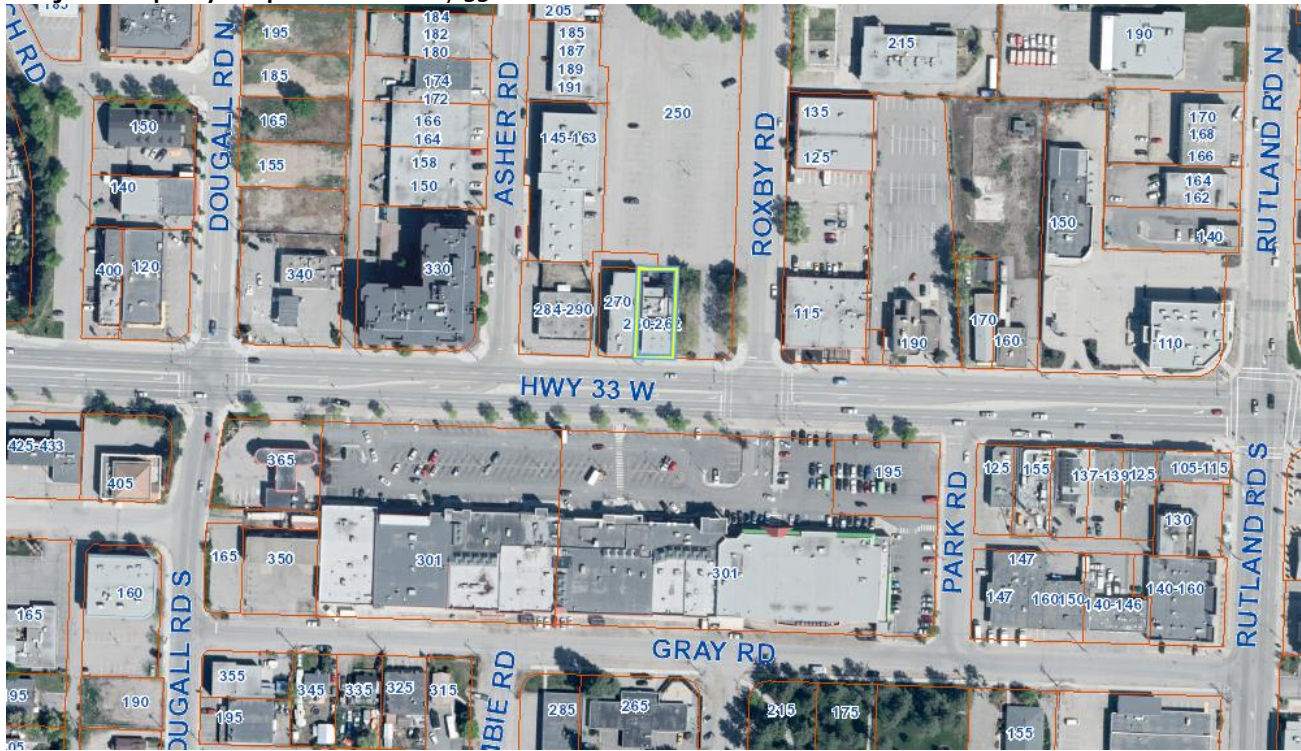
**4.3 Site Context**

The subject property has a total area of 548.94m<sup>2</sup> and is located on Hwy 33 W. The property has been designated UC – Urban Centre in the Official Community Plan and the surrounding area is also UC.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 – Urban Centre Commercial	Parking Lot
East	C4 – Urban Centre Commercial	Public Park
South	Highway 33 W	Highway 33 W
West	C4 – Urban Centre Commercial	Offices

**Subject Property Map: 260-262 Hwy 33 W**



**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.

**5.2 Kelowna Official Community Plan (OCP)**

**Chapter 4: Future Land Use**

Urban Centres (UC) – Urban Centres are the City’s largest activity hubs. They are characterized by the largest concentration of commercial and employment uses in the city, art and cultural services, a mix of high density residential development, and a high quality public realm. They offer the most walkable environments, have the best transit service and the greatest access to active transportation and shared mobility options.

**6.0 Application Chronology**

Date of Application Received: December 9<sup>th</sup>, 2020  
 Date of Owner Notification: December 18<sup>th</sup>, 2020 & January 18, 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