

REPORT TO COUNCIL



Date: April 25, 2022

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0016

Owner: 464263 British Columbia Ltd.,
Inc.No. BCo464263

Address: 7820 - 7840 Hwy 97 N

Applicant: The City of Kelowna

Subject: Land Use Contract Termination Application

Existing OCP Designation: R-AGR – Rural – Agricultural and Resource

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0016 to terminate LUC76-1055 from Lot A Section 34 Township 23 ODYD Plan 9139 Except Plan 40621 and Lot 2 Section 34 Township 23 ODYD Plan 28654 Except Plans 40618 and KAP57009, located at 7820 Hwy 97 N and 7840 Hwy 97 N, Kelowna, BC, be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Applications Council Policy No. 367;

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

2.0 Purpose

To proceed with early termination of Land Use Contract 76-1055 and to revert the parcel to the underlying A1 – Agriculture 1 zone.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC76-1055 from the subject property. The current LUC affects two properties at 7820 and 7840 Hwy 97 N and restricts the property to 1976's Zoning Bylaw 4500's A1 (Rural) zone and additionally the use of sale and rental of new and used recreational vehicles and storage and sales of propane gas. The underlying zone of A1 – Agriculture 1 is the most appropriate zone, as it meets the Future Land Use Designation, however, the

existing business on site will be put into a legal non-conforming status. The business is permitted to remain in a non-conforming status as long as it is not discontinued for a continuous period of 6 months.

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 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 Land Use Contract is a City initiative, and the land use is not subject to major change.

4.3 Site Context

The subject properties are located on Highway 97 N. The property and the surrounding are has been designated as Rural – Agricultural and Resource in the Official Community Plan.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture
East	FNR – First Nations Reserve	Residential
South	A1 – Agriculture 1	Residential
West	A1 – Agriculture 1	Vacant

Subject Property Map: 7820-7840 Hwy 97 N



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 9th, 2020
Date of Owner Notification: December 18th, 2020 & March 29th, 2022

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