

REPORT TO COUNCIL



Date: January 30, 2017

RIM No. 1250-40

To: City Manager

From: Community Planning Department (LK)

Application: LUC16-0002 **Owner:** Edward & Linda De Cazalet

Address: 1945 Bennett Road **Applicant:** Edward & Linda De Cazalet

Subject: Land Use Contract Discharge

Existing OCP Designation: S2RES - Single Two Unit Residential

Existing Zone: LUC 78-1024
LUC 76-1088

Proposed Zone: RR3 - Rural Residential 3

1.0 Recommendation

THAT Application No. LUC16-0002 to discharge LUC76-1088 & LUC78-1024 from Lot 46 Section 17 Township 23 ODYD Plan 31701, located at 1945 Bennett Road, Kelowna, BC, be considered by Council;

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

2.0 Purpose

To discharge the Land Use Contracts from the subject property.

3.0 Community Planning

The applicant is proposing to construct a secondary suite within the existing single family dwelling on the subject property. However, the parcel is currently under the regulation of two Land Use Contracts (LUC) which do not permit the development of secondary suites. LUC76-1088 was created in 1977 and LUC78-1024 was created in 1978. The LUC's regulated the subdivision of the land to a maximum of 70 parcels within the McKinley area of Kelowna and stipulate that the provisions of Zoning Bylaw No. 4500 R1 - Single Family Residential - Low Density regulations will apply to the development of the land. Therefore, secondary suites are not an allowable use. Community Planning staff supports the request to discharge the LUC to enact the underlying zoning of RR3 - Rural Residential 3 and permit the secondary suite.

As a result, Community Planning Staff are proposing the termination of the two Land Use Contracts that apply to the 70 parcels within the McKinley Area of Kelowna. This is a separate

process from the discharge of an LUC, as termination eliminates the LUC one year after adoption whereas, a discharge is immediate. The Report to Council for the termination of the contracts will follow as Application LUCT16-0002.

Staff are supportive of increasing density through the addition of secondary suites for proposals which meet the development regulations.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbor consultation by individually contacting the neighbours within 50 m of the subject parcel.

4.0 Proposal

4.1 Background

The province first experimented with contract zoning in 1971. The Land Use Contract was a tool that entered into use 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.

However, 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. From 1978 to 2014, municipalities or the owners of the land could not unilaterally discharge, cancel, or modify the land use contract without the other party's consent. 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. This provides property owners with ten years to complete any development authorized by their land use contract unless the LUC is terminated prior to that date. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, due to this requirement of the Local Government Act, staff are recommending whenever a property owner applies to change land uses within an LUC, that staff initiate the process to eliminate the whole LUC. This approach will help alleviate the future work load of eliminating and rezoning all LUC's at one time.

In addition, local governments must provide notice to each owner that the termination of land use contract is occurring 1 year after adoption and must provide notice of what the new zoning regulations are that apply to the land.

4.2 Project Description

The applicant is proposing to construct a secondary suite within the existing dwelling as this is an allowable secondary use within the RR3 - Rural Residential Zone. To allow the use, the existing LUC's require termination. Compliance with Zoning Bylaw regulations will be reviewed at time of the Building Permit application, as a Development Permit application is not required.

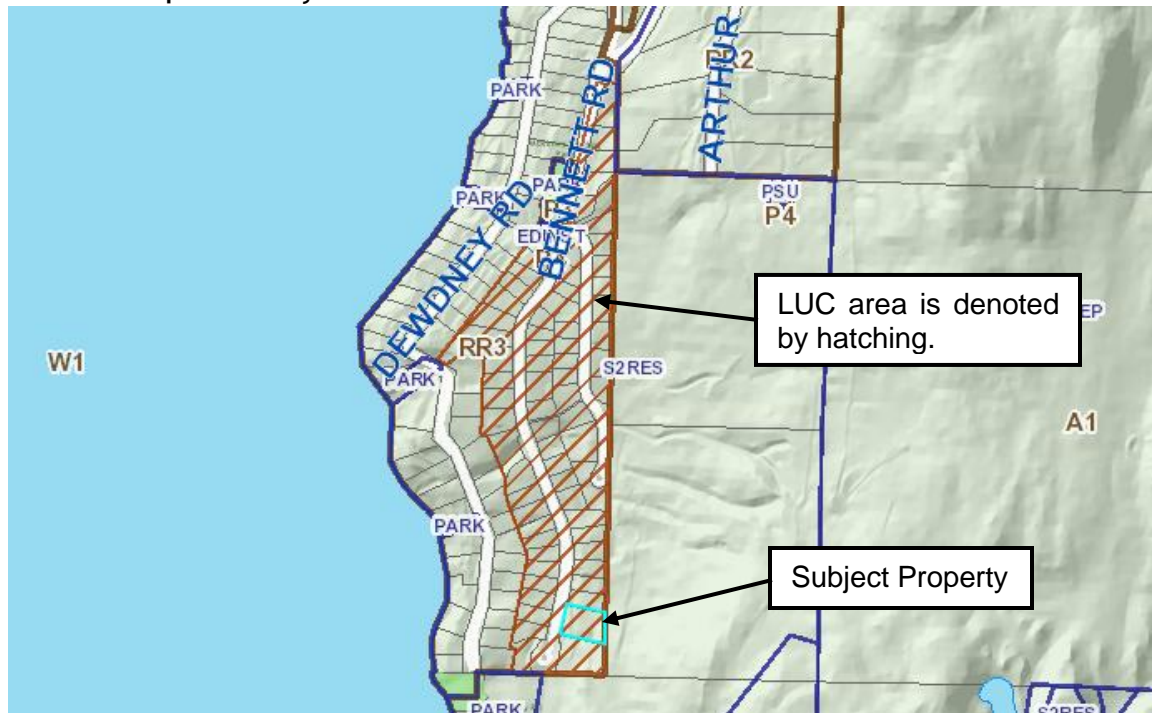
4.3 Site Context

The subject LUC's are located in the McKinley area of Kelowna and applies to 70 parcels which front onto Bennett Road and Paly Road.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR3 - Rural Residential 3	Single Family Residential
East	RR2 - Rural Residential 2 A1 - Agricultural 1	Agriculture
South	A1 - Agricultural 1	Single Family Residential
West	RR3 - Rural Residential 3	Single Family Residential

LUC Area Map: McKinley



Subject Property Map: 1945 Bennett Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

5.2 Land Use Contract Termination Strategy Report to Council dated September 12, 2016

That Staff bring a package of Land Use Contract Terminations to Council approximately every quarter between 2017 and 2022. It is more cost effective from the notification perspective if the Land Use Contracts are bundled together.

6.0 Technical Comments

6.1 Building & Permitting Department

- No comments with respect the LUC discharge application.

6.2 Development Engineering Department

- See Attachment A

6.3 Irrigation District - Glenmore-Ellison

- No issues with respect to the LUC discharge application.

7.0 Application Chronology

Date of Application Received: February 23, 2016

Date Public Consultation Completed: August 25, 2016

Report prepared by: Lydia Korolchuk, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment A: Development Engineering Memorandum

Attachment B: GEID Letter

¹ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).